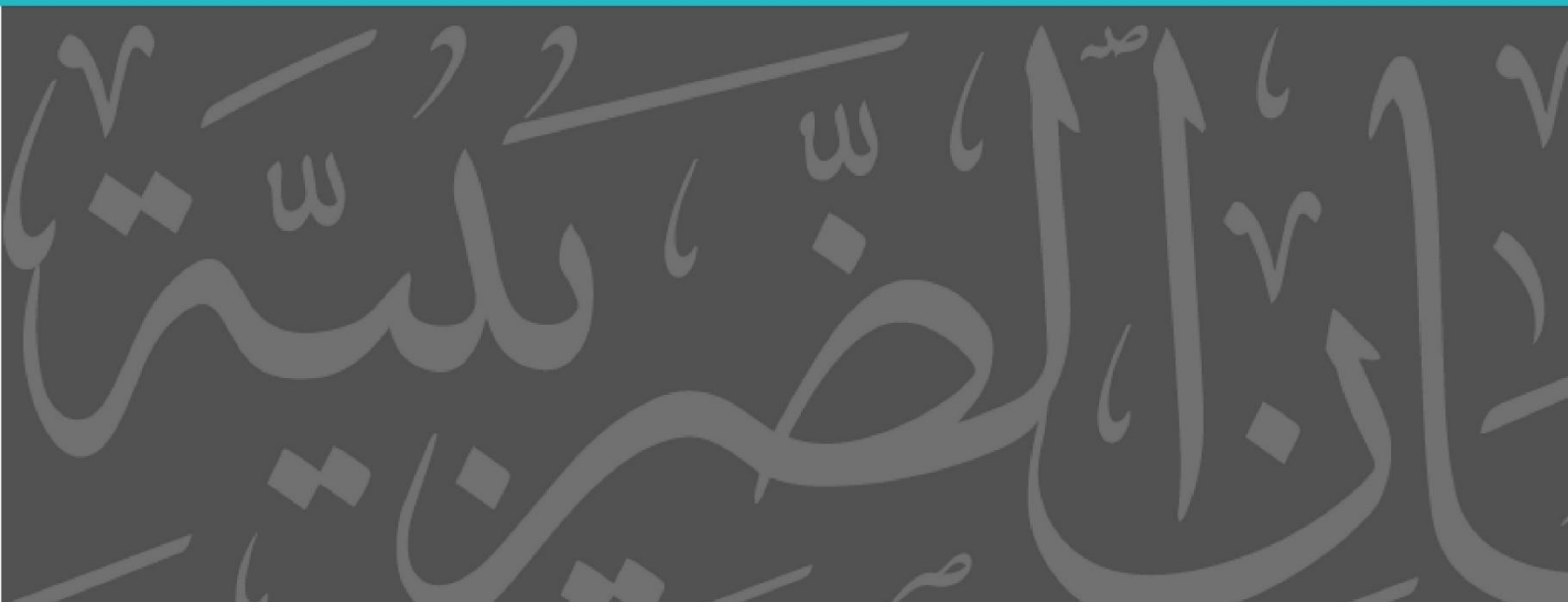




الأمانة العامة للجان الزكوية والضريبية والجمركية
General Secretariat of Zakat, Tax and Customs Committees

**Compendium of Decisions Issued by the
Zakat and Tax Committees
for the Year 2024
(Zakat)
volume 2**



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



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Adjustment to Net Profit



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-170811

Case No. Z-2023-170811

Keywords:

Zakat – Adjustment to net profit – Shares of foreign and Saudi partners – Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the second circuit regarding violations and disputes of income tax in Riyadh No. (ISR-2022-1812), where his appeal lies on clause (Share of the Saudi partner with Adjustment to the net result) because the authority did not take into account the amendment made by the company to reduce the share of the Saudi partner from the net value of the assets deducted from the zakat base, which led to the inclusion of the Saudi partner's share of the Adjustment to the net result twice. And it has been established to the appellate committee that the Taxpayer reversed the effects of the exemption of the foreign partner and canceled the effect from the net value of properties and equipment according to the statements, and the authority did not take into account the asset clause when assessing, and it is the Taxpayer's right. Consequently; the Taxpayer's appeal is accepted and the decision of the division is canceled.

Document:

- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 19/01/2023 by ..., National ID No. (...) Was considered as agent for the appellant company under agency No. (...), on the decision of the Second Circuit for the Adjudication of Income Tax Violations and Disputes in Riyadh (ISR-2022-1812) issued in Case No. (Z-72433-2021) related to the 2015 Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs:



First: accepting the lawsuit filed by the plaintiff / Company ..., Commercial Registration No. (...), against the defendant / Zakat, Tax and Customs Authority, procedurally.

Second: On the Merits:

- 1- Cancel the Defendant's action with respect to the clause (Revenue provided in the amount of SAR 24,688,756), as stated in the reasons.
- 2- Rejecting the plaintiff's objection to the clause (student fees received in advance in the amount of SAR 20,484,603).
- 3- Rejecting the plaintiff's objection to the clause (Accounts Payable in the amount of SAR 3,958,538).
- 4- Rejecting the plaintiff's objection to the clause (accrued expenses in the amount of SAR 1,297,648).
- 5- Rejecting the plaintiff's objection to the clause (Saudi partner's share with adjustments to the net result).
- 6- Rejecting the claimant's objection to the "Investments on behalf of a related party - partner" clause.

Since this decision was not accepted by the Taxpayer (Company ...), he filed a list of appeals, which included the following:

The Taxpayer disputes the decision of the Appellate Circuit, claiming that with regard to the clause (Saudi partner's share with adjustments to the net result), the Authority did not deduct the Saudi partner's share from the adjustments to the net result amounting to SAR 18,332,190, as it merely adjusted the net taxable profit by the share of the tax-exempt foreign partner, as explained below:

- during 2015, the foreign partner (the ...) Was exempted from taxes, accordingly, when preparing the 2015 Zakat and Tax return, the company was unable to adjust the share of the tax-exempt foreign partner in the net taxable profit, due to the lack of the ratio and proportionality option in the Revenue system, according to letter No. (4954/16/1436) dated 15/07/1436H corresponding to 04/05/2015.
- the company excluded the tax due on the foreign partner's share from the beginning of the year until the exemption date by 123 days, by deducting an amount of (19,317,377) SAR within the adjustments to the results of the year due to the company's inability to exclude the share of the foreign partner exempt from tax for the period from the exemption date until the end of the year.
- as the company previously stated when filing the objection that reducing the year's results by the above mentioned amount affected the Saudi partner's share of the adjusted profit, the company reduced the balance of net fixed assets excluded from the Zakat base by SAR (18,332,190), which represents the Saudi partner's share of the adjusted amount ($19,317,377 \times 94.9\% = 18,332,190$ SAR).
- the Authority's refusal to deduct the SAR 19,317,377 adjustment to the year's results, without taking into account the impact of the company's reduction in net assets to cancel the effect of the adjustment amount



on the Saudi partner's share, resulted in not deducting the Saudi partner's share of the net value of property and equipment according to the financial statements and thus calculating an additional Zakat on it.

As for what the issuing circuit stated that the burden of proof lies with the Taxpayer, the decision of the First Appellate Circuit for Income Tax Violations and Disputes (IR-2022-200) came in favor of the Taxpayer, stating that "the principle is to accept the Taxpayer's admission unless evidence to the contrary appears"; accordingly, the Taxpayer requests that the Saudi partner's share of the adjustments to the net result of SR 18,332,190 or the deduction of the Saudi partner's correct share in the net balance of property and equipment from the zakat base according to the audited financial statements for 2015AD should be accepted. The Taxpayer also objects to the clause (fees collected in advance in the amount of 20,484,603 riyals), the clause (accounts payable in the amount of 3,958,538 riyals), the clause (expenses due in the amount of 1,297,648 riyals) and the clause (investments in the name of a related party ' partner"), and therefore the appellant requests that the decision of the court of first instance be overturned for the reasons stated above.

On Wednesday, February 14, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes met via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause 2 of Article 15 of the working rules of the committees for resolving tax violations and disputes issued by Royal Decree No. (26040) dated: (21/04/1441AH): after reviewing the appeal, after examining the contents of the case file, and after deliberating on the case file, and after deliberating legally; as the Circuit did not find any reason to require the presence of the parties to the appeal, the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, 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 formally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, since the appellant's appeal concerns clause (the Saudi partner's share with adjustments to the net result), and since his appeal is based on the fact that the Authority did not deduct the Saudi partner's share from the adjustments to the net result amounting to SAR 18,332,190, whereas it merely adjusted the taxable net profit by the share of the foreign partner exempt from tax. Therefore, the Taxpayer requests that the amendment of the Saudi partner's share of the adjustments to the net result amounting to SAR 18,332,190 be accepted or that the correct share of the Saudi partner be deducted from the net balance of property and equipment from the zakat fund in accordance with the audited financial statements for the year 2015AD. Where paragraph (3) of Article (20) thereof states: "The burden of proving the accuracy of



what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, it is clear that the dispute is limited to the Taxpayer's request to accept the adjustment of the Saudi partner's share from the Adjustment to the net result amounting to (18,332,190) riyals or to deduct the correct share of the Saudi partner in the net balance of properties and equipment (fixed assets) from the zakat base according to the audited financial statements for the year 2015AD, as the authority did not take into account the amendment made by the company to reduce the share of the Saudi partner from the net value of the assets deducted from the zakat base, which led to the inclusion of the Saudi partner's share of the Adjustment to the net result twice. Upon reviewing the case file and the documents it contains, it is clear that the Taxpayer reversed the effects of the exemption of the foreign partner and canceled the effect from the net value of properties and equipment according to the statements. Therefore, upon reviewing the financial statements shown in the Taxpayer's declaration, it is clear that the deducted assets appeared at a value of (272,750,022) riyals and that the Taxpayer adjusted its amount in his declaration to remove the effect of the Adjustment on the foreign partner. Since the authority did not take into account the asset clause when assessing, it is the Taxpayer's right, which leads the committee to accept the Taxpayer's appeal and cancel the decision of the Appellate Committee regarding this clause.

With regard to the remaining clauses subject to the lawsuit, there is no fault in the court's adoption of the grounds for the contested decision without adding to them, since it deemed that those grounds were sufficient and did not require the addition of any new information, because in upholding it on the grounds set out in those reasons, it confirmed that it did not find in the objections raised against the decision anything that warranted a response beyond what was contained in those reasons. That being the case, and since it has been established that the decision under appeal in the dispute concerning the contested clauses is consistent with the valid reasons on which it is based and sufficient to support its ruling, as the court that issued it examined the substance of the dispute and reached the conclusion set out in its ruling. This court did not find anything that would warrant correction or comment in light of the arguments presented before it. This court therefore rejects the appeal and upholds the decision of the court of first instance in its entirety with regard to the remaining clauses of the claim, based on the reasons given.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company ..., commercial register (...), Unique number (...) Against the decision of the second circuit regarding violations and disputes of income



tax in Riyadh No. (ISR-2022-1812) issued in case No. (Z-72433-2021) related to the zakat assessment for the year 2015AD.

Second: On the Merits:

- 1- Rejection of the Taxpayer's appeal and upholding the decision of the Appellate Committee regarding clause (Fees for students received in advance amounting to 20,484,603 riyals).
- 2- Rejection of the Taxpayer's appeal and upholding the decision of the Appellate Committee regarding clause (Accounts payable amounting to 3,958,538 riyals).
- 3- Rejection of the Taxpayer's appeal and upholding the decision of the Appellate Committee regarding clause (Accrued expenses amounting to 1,297,648 riyals).
- 4- Acceptance of the appellant's appeal and cancellation of the decision of the Adjudication Circuit with regard to clause (the Saudi partner's share with Adjustment to the net result).
- 5- The Taxpayer's appeal was rejected, and the decision of the adjudication committee regarding the clause (investments in the name of a related party "partner") was upheld.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-173743

Case No. Z-2023-173743

Keywords:

Zakat - Adjustments to net profit - Taxpayer's share of net profit or loss - Acceptance of the Authority's appeal - Rejection of the Taxpayer's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority (ZTCA) objected to the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2600), where the Authority's appeal lies on the clause (Investment in local subsidiaries for 2017) because the Taxpayer's claim to deduct the value of accumulated losses within the investments was deducted in the invested company, and the Taxpayer's appeal lies on the clause (Exclusion of share in the results of affiliated companies) because the Authority did not allow adjustments to the net profit in... For the year 2016AD) according to the following reasons that the Authority did not allow the discount due to the lack of a balance in the financial statements. The Authority found that the Taxpayer submitted the financial statements and a balance appeared in Note 6. The Authority accepted the deduction for 2017AD, but the adjustment was not made for 2016 because there was no balance for this year other than what was shown in the financial statements. This means accepting the appeal of the authority and accepting the appeal of the Taxpayer.

Document:

- Paragraph (4) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 30/01/2023, from (...), National ID No. (...), as an agent of the appellant company under agency No. (...), was considered.), and the Zakat, Tax and Customs Authority (ZTCA), on the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2600) issued in Case No. (Z-78231-2021) related to the Zakat assessment for the years 2016 to



2018AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: Dismissed the plaintiff's objection to the provision of taking into account the plaintiff's share of profit or loss in foreign subsidiaries for the years 2016AD to 2018AD, and dismissed the plaintiff's objection with respect to not taking into account the plaintiff's share of the net profit or loss in ... Company for 2016 and 2017AD.

Second: accepting the plaintiff's objection to the foreign currency translation reserve clause for the years 2016AD to 2018AD.

Third: rejecting the plaintiff's objection to the foreign investment clause for the years 2016AD to 2018AD.

Iv: rejected the plaintiff's objection to the clause of accrued board fees and the amount owed to related parties outstanding for more than 12 months for 2017AD and 2018AD.

V: Accepting the plaintiff's objection to the investment in local subsidiaries clause for 2017AD.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, the Taxpayer claims that the Authority did not allow adjustments to the net profit of the company for its share in the profit and loss of foreign investments in the results of subsidiaries, and did not take into account the entire share in companies (... - Lebanon), (... - Syria) the Taxpayer points out that for the year 2016AD, the deduction was not allowed due to the lack of a balance in the financial statements, while for 2017AD, the Authority did not take into account the closing balance of the deducted investments and added SR (55,951) to the adjusted net profit. The Taxpayer requests that the full amount of the share in all subsidiaries for the years 2016AD through 2018AD be taken into account. With regard to the clause (foreign investment), the Taxpayer requests the cancellation of the Circuit's decision on this clause on the basis of not deducting the foreign investment for the years 2016 to 2018AD, as the Taxpayer indicates that he submitted the audited financial statements for the disputed years and submitted the calculation of zakat for foreign investments, and provided the mail proving that the Taxpayer paid the outstanding zakat liability in the amount of (519,359 riyals), and adds that the Circuit will allow the deduction of foreign investments from the zakat base based on the explanations and documents submitted by the Taxpayer. Regarding the clause (Accrued expenses and amounts due to related parties), the Taxpayer requests that the Circuit's decision on this clause be canceled on the basis of the objection filed by the company before the Authority against the rulings issued by it, on the grounds that the amounts added to the Zakat base were not used to finance fixed assets.

The decision was not accepted by the Zakat, Tax and Customs Authority, which filed its appeal against the challenged decision by means of an appeal regulation that included the following summary:



With regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal lies with regard to (foreign currency translation reserve), so the Authority explains that it did not allow the currency translation reserve to be deducted from the Zakat base because it is not deductible and there is no provision in the Zakat Collection Regulation issued in 1438 AH to deduct it during the stage of studying the objection, the Authority held a hearing with the Taxpayer on 08/18/2021 AD, in which he stated in accordance with what was stated in his objection letter, and the Authority asked him to provide a simple definition of the foreign currency translation reserve from its inception to its use and its daily restrictions, and after studying and reviewing it, it was found in addition to what has been clarified above, the Authority would like to state that the Zakat Collection Regulation in its Article (4) specifies the clauses that are deducted from the Zakat base, and there is no provision for deducting the currency translation reserve with regard to the Circuit's reasoning, the Authority responds that it is incorrect and contrary to the statutory requirement, and the Circuit issuing the decision under appeal overturned the Authority's decision as it took into account the results of the foreign currency translation valuation the reason for not deducting foreign investments within the elements of the Zakat base is that the foreign financial statements have not been approved by the official authorities in the country of investment, as the actual calculation or payment of Zakat has not been proven, which is represented in the investments since the foreign currency translation reserve clause is directly related to the clause of recognizing gains or losses from a foreign investment that was not deducted within the Zakat base for the reasons referred to above, as the decision of the Adjudication Circuit is not based on fact or reality, so how can the gains or losses incurred from foreign investments that have not been accepted and the impact resulting from these differences be recognized? In addition, the Circuit's decision referred to its reliance on Article (IV) paragraph (h) of the Zakat Regulation does not apply to the clause as it is related to the results of revaluation of securities from profit or loss according to the market value, while the clause is related to foreign investments that have not been accepted, which supported the Authority's action in the third paragraph of the same decision. Regarding the clause (Investment in local subsidiaries), the Authority states that it deducted the balance of the first period of investments after adding the additional contribution to the capital during the year (61,633,888) SAR for the year 2017AD, and after studying and reviewing the movement of investments for the company's factory ... For the year 2017, there is an additional investment amount of 50 million, representing losses incurred during the year and not an additional contribution to capital. After reviewing the financial statements of the subsidiary, it appears that the Taxpayer owns 100% of it. The Taxpayer reported a reduction in zakat, and upon reviewing the subsidiary's tax return, it was found to be zero, and no zakat was paid during the year in question. The losses carried forward at the beginning of the year were deducted from the zakat base in the amount of SAR 78,366,111. Upon reviewing the list of changes in the equity of the subsidiary, this loss appears at a value of 50 million. Accordingly, it is clear that the Taxpayer used the amount of 50 million to reduce the opening balance of the accumulated loss, which the subsidiary benefited from by deducting it in full from its zakat base, as explained above. In addition, the Taxpayer benefited from the net loss of SAR 19,439,700 by adjusting the net profit in the



consolidation. Accordingly, it is clear that the amount of SAR 50 million was not subject to zakat twice and no zakat was paid on it to be deducted from the Taxpayer's zakat base. Furthermore, it does not represent an additional investment, as explained in the financial statements. In light of the above and based on the provisions of paragraph (a/4) of Article (4) of the Zakat Collection Regulations issued in 1438 AH. As for the grounds stated by the court, the Authority responds that they are incorrect and contrary to the provisions of the law. The court that issued the decision under appeal overturned the Authority's decision, stating that the company in which the investment was made is subject to zakat collection in the Kingdom. The Authority responds to this by stating that, after reviewing the financial statements of the company in which the investment was made (the factory of the international company ...) Unique number (...). By reviewing the list of changes in equity of the investee company, it is clear that the value of the accumulated losses at the beginning of the year is (78,366,111) SAR, and it turns out that there are losses borne by a related party (Defendant) in the amount of (50,000,000) SAR, with reference to the assessment approved by the Authority in the investee company, it turns out that the accumulated losses were treated according to the assessment of the Authority, i.e. After the Authority's adjustments to the adjusted net profit without deducting the loss coverage of the accumulated losses provided by the Taxpayer, and therefore it clarifies what was approved from the deduction of the accumulated losses in the investee company based on Article (3/II) paragraph (9) amounted to (26,273,634) riyals and therefore what the Taxpayer did was to cover the accumulated loss but it turns out that the deduction of the entire loss in the investee company (the company's factory ...) Therefore, the Taxpayer's claim to deduct the value of the accumulated losses within the investments has been deducted in the investee company, in addition to the fact that the amount of covering the accumulated losses does not represent an additional investment as it is in the financial statements, and the Authority's treatment of the investment in the investee company (the company's factory...) With the addition of the first period and the additional financing in addition to a share of the year's loss, and based on the above, the Authority maintains the validity and soundness of its procedure, based on Article (4) paragraph (4/a) of the Zakat Regulation issued in 1438 AH.

On Wednesday, March 13, 2024, 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, through video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 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 reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, 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 means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the subject of the Authority's appeal regarding the clause (Investment in local subsidiaries for the year 2017), the Authority states that it deducted the first period balance of investments after adding the additional contribution to the capital during the year (61,633,888) SAR for the year 2017AD. Based on paragraph (4/b) of clause (second) of Article (4) of the executive regulations for zakat collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which states: "The following shall be deducted from the zakat base:" 4- (A): investments in establishments inside the Kingdom - joint venture with others - if those investments are subject to the collection of Zakat under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." The Circuit considered the subject of the dispute, and with reference to the supplementary memorandum submitted by the Authority, it stated that with reference to the declaration of the subsidiary company, which is the factory of ... Company according to Article (3) of the Executive Regulations for Zakat Collection, it turns out that the accumulated losses were processed according to the Authority's assessment i.e. After the Authority's adjustments to the adjusted net profit, where the carried forward and adjusted losses after the Authority's adjustments amounted to (29,426,554.88) SAR, based on Article (3) of the Executive Regulations for Zakat Collection, it turns out that the deduction of the entire loss in the investee company (the company's factory ...) Was utilized therefore, what the Taxpayer claims to deduct the value of the accumulated losses within the investments has been deducted in the invested company, and therefore the amount of (50) million has not been subjected to Zakat twice and Zakat has not been paid on it to be deducted from the Taxpayer's Zakatbase, in addition to not representing an additional investment as shown in the financial statements, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit regarding the clause "Investment in local subsidiaries for 2017AD." The Circuit concludes that the Authority's appeal should be accepted and the decision of the Adjudication Circuit should be overturned.

Regarding the Taxpayer's appeal regarding the clause (excluding the share in the results of subsidiaries), the Taxpayer claims that the Authority did not allow adjustments to the company's net profit by its share in the profit and loss of foreign investments in the results of subsidiaries, and by not taking into account the full share in companies (... - Lebanon), (... - Syria) on the basis that these investments are not discount clauses, and the Authority did not allow adjustments to the net profit of the company with its share in the loss of the company ... The Taxpayer points out that for the year 2016AD, the discount was not allowed due to the lack of balance in the financial statements for 2017 on the basis that the Authority did not take into account the



closing balance of the discounted investments and added (55,951) SAR to the adjusted net profit and the Taxpayer demands that the full share amount be taken into account in all subsidiaries for the years 2016AD through 2018AD. Whereas paragraph (107) of the Accounting Standard for Equity Method Investments issued by the Accounting Standards Committee in 1423H (2002) stipulates that "An investment shall be measured, recognized and disclosed in the financial periods following the date of acquisition at its historical cost, adjusted for the investee's net income (loss) and dividends." Based on the above, with respect to (foreign investment in subsidiaries), namely (... Company limited (... -Lebanon) and a ... (Syria), where the Authority stated that it did not accept the deduction of this investment because it is a foreign investment that has not been recommended, and where the decision of the Circuit concluded to reject the Authority's appeal regarding the clause Foreign Currency Translation Reserve for the years 2016, 2017 and 2018AD, as the Taxpayer provided proof of the recommendation of the investment and therefore what is related to it follows its judgment, which concludes the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding (foreign investment in subsidiaries). Regarding the Taxpayer's appeal regarding the clause (Taxpayer's share of the net profit or loss in ... Company the Authority explained that it accepted the discount during the examination phase and stated that the company is registered with the Authority and the financial statements of the subsidiary did not show any first period balance for the year 2016AD, and upon reviewing the financial statements of the Taxpayer, it found that the investments in 2016 amounted to (490. 763) SAR, as the Taxpayer submitted the financial statements and a balance appeared in Note No. 6, the Authority accepted the discount for 2017AD, but the adjustment was not made for 2016 because there was no balance for this year other than what was shown in the financial statements, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding (the Taxpayer's share of the net profit or loss in a company .. For 2016).

Regarding the Taxpayer's and the Authority's appeal on the remaining clauses in the case. Whereas, there is no fault on the part of the Circuit in adopting the reasons for the decision under appeal without adding to them, if it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with the content of those reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in those reasons, and since it is proven that the decision under appeal regarding the dispute regarding the clauses under appeal was consistent with the valid reasons on which it was based and sufficient to carry its judgment, since the issuing Circuit scrutinized the content of the dispute in it and reached the result in its operative part since the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and since this Circuit did not observe anything that warrants censure or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal, reject the Authority's appeal, and uphold the decision of the Adjudication Circuit with respect to the rest of the clauses at issue in the case, bearing in mind its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:



Decision:

First: Acceptance of the appeal procedurally from the Taxpayer / Company ..., Commercial Registration (...), Unique Number (...) The appeal filed by the Zakat, Tax and Customs Authority against the decision of the First Circuit of Income Tax Violations and Disputes in Jeddah Governorate (IZJ-2022-2600) issued in Case No. (Z-78231-2021) related to the Zakat assessment for the years 2016AD to 2018AD.

Secondly: On the Merits:

1- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (rejecting the appeal regarding the foreign currency translation reserve clause for the years 2016, 2017 and 2018).

2- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause "Investment in local subsidiaries for the year 2017".

3- Regarding the Taxpayer's appeal on the clause (excluding the share in the results of subsidiaries for the years 2016, 2017 and 2018):

A. Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding (foreign investment in subsidiaries).

B. Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding (the Taxpayer's share of the net profit or loss in ... Company for 2016).

C. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (the Taxpayer's share of the net profit or loss in ... Company for the year 2017).

4- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (foreign investment for the years 2016, 2017 and 2018).

5- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (accrued expenses and amounts owed to related parties for 2017 and 2018).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-174189

Case No. Z-2023-174189

Keywords:

Zakat - adjustments to net profit - import profits - acceptance of Taxpayer's appeal

Summary:

The Taxpayer's appeal against the decision of the Second Circuit for the adjudication of income tax violations and disputes in Riyadh (ISR-2022-1886), where his appeal is based on the clause (owner's current) for submitting the detailed movement, and the clause (import profits) because the Authority made the adjustment by marking up the costs of Chinese loaders by (15%). The Appellate Committee found that the Authority is not entitled to earn a 15% profit on the goods, as the amount in dispute does not fall within the undeclared Revenues because the Authority is able to earn a 15% profit. This means; accepting the Taxpayer's appeal and canceling the decision of the adjudicating circuit.

Document:

- Paragraph (2) of Article (6) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (1) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Article (13) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 2023/01/31, from ..., National ID No. (...) Was considered as an agent under Agency No. (...) On behalf of the appellant organization, on the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-1886) issued in Case No. (Z -2021-39218) related to the 2018 Zakat assessment, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:



Accepting the lawsuit filed by the plaintiff, ... Group, Commercial Registration No. (...), against the defendant, the Zakat, Tax and Customs Authority, procedurally, and rejecting it in substance. This decision was not acceptable to the Taxpayer (Group ...).the Taxpayer's appeal is based on the clause (import profits). The Taxpayer explains that his dispute with the Authority lies in the adjustment of the profit percentage and there is no dispute over the commercial transactions with the Sudanese company, and that the activity of the organization according to the commercial records is the sale and purchase of new and used cars the Taxpayer stated that the Authority made the adjustment by adjusting the costs of the Chinese loaders by (15%) in application of paragraph (b) of Article 13 of the Regulations, and with reference to the text of the article, he stated that the text of the article does not apply to Taxpayers who maintain commercial books as the organization maintains commercial books in accordance with the conditions mentioned in Article Sixteen of the Executive Regulations issued by Ministerial Decision No. (2082) dated 01/06/1438AH; therefore, the Zakat base must be calculated based on the provisions of Article Four, Article Five and Article Six of the Regulations, and the Taxpayer stated the pricing policy followed by the organization to assess the selling price of these goods did not violate the accounting standards applied within the Kingdom of Saudi Arabia. In the custom of the automobile trade, there is no fixed profit margin for all cars, so each car is priced and sold based on the market situation and purchasing power at the time of its sale and the year of issuance of the car. The Taxpayer explains that the detailed movement was submitted, but the Authority based its decision on doubt and suspicion and assumed that the first period balance in the submitted current statement is not correct because the first period balance does not exist in the approved financial statements for the year 2018AD, and the Taxpayer stated that the absence of the first period balance in the financial statements is due to the fact that the first financial statements of the organization approved by a public accountant were the financial statements for 2018AD, so according to the standards, the public accountant cannot present first period balances if they have not been audited, and stated that this measure does not mean that the opening balances are not correct, so the Taxpayer requests to add the minimum amount

On Thursday, March 14, 2024, 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 conferencing in accordance with the procedures for remote video litigation; based on the provisions of Article 15, Clause 1 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 08/04/1445 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 reviewing the case documents and the appeal list submitted by the Taxpayer, 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 formally admissible



because it was submitted by a competent person and within the statutory period prescribed for conducting it.

The Taxpayer's appeal on the clause (import profits), and where the Taxpayer's appeal lies in the fact that the Authority made the amendment by marking up the costs of the Chinese loaders by 15% in accordance with paragraph (b) of Article 13 of the regulation, and where the dispute lies in the fact that the Taxpayer admitted not marking up the goods coming from China and sold them without a profit margin to the invested company in Sudan, where the value of the goods amounted to (3,635,993.3) riyals.³) Riyals; therefore, the Authority stated that it had profited the sales by (15%) in accordance with the provisions of the Zakat Collection Regulation issued by Ministerial Decision No. (2082) dated 1/6/1438 AH. The Circuit analyzed the facts of the case and found that the Authority is not entitled to profit the goods by (15%), as the amount in dispute does not fall within the undeclared Revenues because the Authority can profit by (15%), and with regard to the Authority's argument regarding paragraph (b) of Article (13), referring to the amendment letter issued on 5/10/2020, it stated the following: "Adjusting the net profit by capitalizing the costs of the Chinese loaders by 15% in accordance with paragraph (b) of the sixth paragraph of Article 13 of the Zakat Collection Regulations." Since the above is unfounded, as the Authority acknowledged in its reply memorandum to the Taxpayer's appeal, but stated that its action was based on Article (2) of Article (6) regarding non-deductible expenses, this article also does not apply to the Taxpayer's case in the disputed clause, and from the above and since the Taxpayer has disclosed these foreign purchases within the cost of sales, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit in this clause.

With regard to the Taxpayer's appeal on the (owner's current) clause, where the Taxpayer's appeal lies in the submission of the detailed movement, and based on paragraph (2) of clause (I) of Article (IV) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which stipulates that: "The Zakat base consists of all the Taxpayer's assets subject to Zakat, including: 2- The current credit account of the owner or partner at the beginning or end of the year, whichever is lower, as well as the increase in the current account if it originates from equity or was used to finance an asset from the assets of the property." Since the partner's current account is one of the components of the Zakat base and is added to the Zakat base if a year has passed on it or if it originates from equity or was used to finance the assets deducted from the Zakat base, and since the dispute over this clause is a documentary dispute, the committee found that the Taxpayer attached the audited financial statements for the year 2018 and attached the statement of account for the partner's current account (...). For the period from 1/1/2018 to 31/12/2018AD, which shows the opening balance, closing balance, and debit and credit movements during the year. Upon reviewing the authority's response memorandum, it does not affect what the authority claimed that it could not verify the existence of an opening balance for the partner's current account, as the Taxpayer stated in his appeal that the absence of an opening balance in the financial statements is due to



the fact that the first financial statements of the corporation approved by a certified accountant were the financial statements for the year 2018; therefore, the certified accountant cannot present opening balances if the financial statements for the year 2017 were not audited. Upon reviewing the attached statement of account, and since it is detailed and the closing balance listed in it matches the audited financial statements for the year 2018AD, the committee concludes to accept the Taxpayer's appeal by adding the minimum limit, which is the opening balance amounting to (592,713.95) riyals, and canceling the decision of the division regarding this clause.

With regard to the Taxpayer's appeal on the clause (distribution of profits), the Circuit is not to be faulted for adopting the reasons for the decision under appeal without adding to them when it determines that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the content of these reasons, it is clear that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and whereas it is evident that the decision under appeal regarding the disputed clauses was in accordance with the valid reasons on which it was based and sufficient to carry its judgment as the issuing circuit scrutinized the dispute and reached the conclusion it reached in the operative part of its decision, and as this circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, this circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in this clause, bearing in mind its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Accepting the appeal procedurally from the Taxpayer/ group... Commercial registration number (...), unique number (...), against the decision of the second division regarding violations and disputes of income tax in Riyadh with number (ISR-2022-1886) issued in case number (Z -2021-39218) related to the Zakat assessment for the year 2018AD.

Second: On the merits:

- 1- Accepting the Taxpayer's appeal and canceling the decision of the division regarding clause (profits from imports).
- 2- Accepting the Taxpayer's appeal and canceling the decision of the division regarding clause (owner's current account).
- 3- Rejecting the Taxpayer's appeal and upholding the decision of the division regarding clause (profit distribution).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-196856

Case No. Z-2023-196856

Keywords:

Zakat - Adjustments to Net Profit - Profits of Invested Companies - Acceptance of Taxpayer's Appeal

Summary:

The Taxpayer's appeal against the decision of the First Circuit for Settlement of Income Tax Violations and Disputes in Riyadh (IFR-2023-134288), where his appeal is based on the clause (not deducting the profits of investments in the investee company) because the Authority did not accept the deduction of the profits of investments not subject to Zakat in the investee company due to the distributions made in the first period for the retained earnings in the investee company. The Appellate Committee reviewed the cash flow statement and the related parties' receivables and found that there was a movement of SAR 10,520,436, all of which was transferred to the partner (...) As the Taxpayer reported, and since it has been proven that the money has been released from the Taxpayer's liability, no zakat is due. Consequently; accepting the Taxpayer's appeal and canceling the decision of the adjudication authority.

Document:

- Paragraph (5) of Article (4) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)

Facts:

The appeal filed on 13/05/2023, by (...), National ID No. (...), as an agent for the appellant company, against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh City (IFR-2023-134288) issued in Case No. (Z -2022-134288) related to the 2020 Zakat assessment, in the lawsuit filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: the decision of the defendant, the Zakat, Tax and Customs Authority, against the plaintiff, ... One Person Company



(unique number...) Related to the provision of adding the dues to parties related to the subject zakat base.

Secondly: rejecting the other objections of the plaintiff/company ... One Person Company (unique number...) On the decision of the defendant/Zakat, Tax and Customs Authority regarding the assessment at issue.

This decision was not accepted by the Taxpayer (... Company he filed an appeal list, which was reviewed by the Circuit and included the following: with regard to the clause "Non-deduction of investment profits in the investee company", the Taxpayer requests that the Circuit's decision on this clause be annulled on the grounds that the Authority's recommendation of the dividends distributed by the investee company (a company...)

The invested company announced the distribution of profits to the partners for the year 2020, including the company ... And these profits were distributed directly in the same year to the partner in the company ..., and accordingly, the money went out in the same year from the company's liability to the partner without entering the activity and turning it around, and what proves this is the company's cash flow statement, which shows the money leaving the company's liability and paying it to the partner. With regard to the clause (subjecting the adjusted income to zakat instead of the zakat base), the Taxpayer demands that the Circuit's decision on this clause be annulled on the grounds that the Authority's practice of subjecting the adjusted profit to zakat is contrary to the provisions of the Shari'ah, as the Authority's subjecting the adjusted income of (10,512. 386 riyals), it ignores the deduction of Acquisition offers from the Zakat base, which is one of the most important pillars for calculating the legal Zakat, and it is for specific clauses in the financial statements without taking into account the rest of the clauses that must be taken into account when calculating the Zakat base, and indicates that several decisions were issued by the Appellate Committee, which overturned such a procedure he points out that several decisions were issued by the Appellate Committee that overturned such a procedure as it does not have a legal basis and that the principle is that zakat is calculated on all zakat funds and the adjusted profit should not be taken, as under this methodology fixed assets and zakatable investments are indirectly zakatized and are among the components of the discounts in the zakat base.

On Sunday, on: 04/08/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision On the merits, and since the Circuit found nothing to require the presence of the parties to the case, the Circuit decided to close the pleading door and reserve the case for adjudication.



Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are fulfilled in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the appeal request is accepted procedurally, as it was submitted by a person with standing, and within the statutory period prescribed for its conduct.

On the merits of the Taxpayer's appeal on the clause "Non-deduction of investment profits in the investee company", the Taxpayer requests that the Circuit's decision on this clause be annulled on the grounds that the Authority's recommendation of the dividends distributed by the investee company (...) The investee company announced the distribution of dividends to the partners for the year 2020, which includes a company that ... These profits were distributed directly in the same year to the partner of ..., and accordingly, the money went out in the same year from the company's assets to the partner without entering the activity and turning it around, and this is proven by the company's cash flow statement, which shows the money going out of the company's assets and being paid to the partner. Based on paragraph (5) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated 07/07/1440 AH, which stipulates that "The zakat base for the Taxpayer who keeps commercial books consists of all his assets subject to zakat collection, including the following: based on the above, the dispute between the parties lies in the Authority's failure to accept the deduction of the profits of investments that are not subject to Zakat in the investee company due to the fact that the distributions were made at the beginning of the period for profits retained in the investee company, and by reviewing the case file and its contents, the Circuit found that the Taxpayer's defenses represented that the money did not remain with him for a full year, as he asserts that the money went from his liability to the partner and therefore there is no Zakat on it 10,520,436 riyals, all of which were transferred to the partner.... According to the Taxpayer, since it has been proven that the money has been discharged from the Taxpayer's liability, Zakat is not payable, which leads this circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding the clause (not deducting the profits of investments in the invested company).

With regard to the Taxpayer's appeal with regard to the remaining clauses, the Circuit is not to be faulted for adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with what these reasons contain, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in those reasons, and since this is the case and it is proven that the decision under appeal regarding the disputed clauses was in accordance with the valid reasons on which it was based and sufficient to support its decision as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in



light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the outcome of the appeal, bearing in mind its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company... One person company, commercial register (...), Unique number (...), against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh City (IFR-2023-134288) issued in Case No. (Z -2022-134288) related to the 2020 Zakat assessment.

Secondly: On the Merits:

- 1- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (non-deduction of profits of investments in the investee company).
- 2- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (subjecting the adjusted income to Zakat instead of the Zakat base).



The Tax Violations and Disputes Committee
The First Circuit for Income Tax Violations and Disputes
In Jeddah Governorate

Decision No. IZJ-2024-205354

Case No. Z- 2023-205354

Keywords:

Zakat – Adjustment to net profit – profits from foreign purchase differences – rejection of the Taxpayer's objection

Summary:

The Taxpayer's objection to the zakat assessment for the year 2017AD, issued by the Zakat, Tax and Customs Authority, is based on the clause (social insurance for the year 2017) where the Taxpayer objects to the authority's action of not allowing the deduction of the excess social insurance expenses paid, which are represented by the differences between the amounts in the accounting records and the social insurance certificate, and the clause (commercial accounts payable for the year 2017) that the accounts payable arose as a result of the company's activities and did not arise from receiving cash amounts and did not use financing that is subject to zakat and has not completed a year, and the clause (accrued vacations and tickets for the year 2017), and the clause (accrued expenses for the year 2017), and in the clause (foreign purchases for the year 2017) regarding the authority's action of adding foreign purchase expenses by an amount and marking it up by (15%). It has been established that the authority's action of amending the Taxpayer's business results is due to the existence of differences in the value of imports that were not declared in the plaintiff's declaration, as the authority's action was based on a comparison of imports according to the statement issued by the Customs Authority, and the Taxpayer did not provide supporting documents for his viewpoint. Accordingly, the Taxpayer's objection is rejected in all clauses.

Document:

- Article (5) of [The rules of operation of the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (5) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



- Paragraph (1) of Article (5) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (2) of Article (6) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:



The facts of this case are summarized as follows: ..., National ID No. (...) In his capacity as the statutory representative of the plaintiff, Inc. Commercial Registration No. (...), under the Memorandum of Association, filed an objection to the 2017 Zakat assessment issued by the Zakat, Tax and Customs Authority, where the plaintiff objects to several clauses: first clause: Social insurance for the year 2017AD, the plaintiff objects to the defendant's action of not allowing the deduction of differences in social insurance expenses paid in excess, represented by the amounts in the accounting books and the social insurance certificate, amounting to (202,181) riyals for the year 2017AD. The plaintiff demands the deduction of the amounts paid to the Social Insurance Institution based on the provisions of paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat. With regard to the second clause: foreign purchases for the year 2017AD, the plaintiff objects to the defendant's action of adding foreign purchase expenses in the amount of (18,365) riyals and profiting from them at a rate of (15%). The plaintiff argued that the company's activity is medical and does not engage in the usual activity of importing and reselling in a commercial manner, and that the amount included in the zakat declaration is (zero), as it acknowledged that there were no foreign purchases for the year in question. The plaintiff argue that all of the company's expenses are audited by a certified public accountant licensed to practise accounting and auditing in the Kingdom of Saudi Arabia, in accordance with the provisions of paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat. With regard to the third clause: Trade payables for 2017AD: The plaintiff objects to the defendant's action of adding trade payables amounting to SAR 425,369 to the zakat fund for 2017AD. It explained that the accounts payable arose as a result of the company's activities and did not arise as a result of obtaining cash amounts, and that the financing was not used for technical purposes and was not due. Therefore, it requests that these balances not be added to the zakat fund. With regard to the fourth clause: The plaintiff objects to the defendant's action of adding the balances of (accrued leave and accrued tickets) in the amount of (1,008,293) riyals and (656,055) riyals, respectively, to the zakat fund for the year 2017AD, explaining that (accrued leave and accrued tickets) arose as a result of the company's activities and did not arise as a result of obtaining cash amounts, and that the financing was not used for acquisition and did not pass the one-year period. Accordingly, it claims that these balances should not be added to the Zakat base, and with regard to the fifth clause: the plaintiff objects to the defendant's



action of adding the accrued expenses of SAR 1,832,131 to the Zakat base for the year 2017AD, as it explained that the accrued expenses arose as a result of the company practicing its activities and did not arise as a result of obtaining cash amounts and did not use financing for what is considered for Acquisition and did not reach Hulul. Therefore, it claims that these balances should not be added to the Zakat base. It suffices to refer to what was stated in the statement of objection, and therefore the defendant affirms the validity of its action based on paragraph (3) of Article (20) and paragraph (4) of Article (6) of the Executive Regulations for the Collection of Zakat, where the defendant's rejection is based on the plaintiff's failure to provide sufficient documentation clarifying the difference paid in excess. With regard to the second clause: foreign purchases for the year 2017AD, the defendant compared the foreign purchases in the plaintiff's return, which amounted to (zero), with the customs statement requested internally from the Customs Circuit, which amounted to (18,365) riyals, and added a profit margin of (15%), amounting to (2,754) riyals. During the meeting with the plaintiff, the plaintiff's representative stated that the company's activity is normal and that it does not engage in the usual import and resale activities in a commercial manner. The plaintiff was also asked about imports amounting to SAR 18,365, and the defendant requested that the plaintiff provide it with an analytical statement of the amount by email. The plaintiff's response was limited to providing a clearance report extracted from the company's account stating that there were no imports, while the report extracted from the defendant's system shows imports amounting to SAR 18,365. With regard to the third clause: commercial receivables for the year 2017AD, that it had added the amount of SAR 425,369, which represents the amount for the past year, according to the movement submitted by the plaintiff and in accordance with the financial statements, based on paragraph (5) of Article (4) of the Executive Regulations for the Collection of Zakat. During the defendant's meeting with the plaintiff, the defendant explained to the plaintiff's representative how it had calculated the amount and that, according to the transaction submitted, the amounts added to the zakat fund, amounting to SAR 425,369, had become due, and that, according to the analysis shown in the excerpt included in the defendant's response memorandum, it is clear which accounts have been converted and must be added to the zakat base. With regard to the fourth clause: leave entitlements and tickets due for 2017AD, it added the credit balances for both (leave entitlements and tickets due) in the amount of (1,008,293) riyals and (656,055) riyals, respectively, to the zakat base for the year 2017AD, which represents the amount that has been carried forward in accordance with the movement submitted by the plaintiff and in accordance with the financial statements, based on paragraph (5) of Article (4) of the Executive Regulations for the Collection of Zakat.

On Sunday, corresponding to: 28/01/2024 AD, the session was opened via videoconferencing in accordance with the remote videoconferencing procedures; based on the provisions of Article 15, Clause 1 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 08/04/1445 A.H.; the plaintiff's representative attended ... National ID number:(...) Under power of attorney No. (...), and attended ... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under the authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority



for Legal Affairs No.:(...) Date: 11/05/1444 AH. Asked what they would like to add, both parties were satisfied with what they had previously submitted. The Circuit decided to adjourn the hearing to deliberate.

Grounds:



Having reviewed the Zakat Law issued by Royal Decree No. (17/28/577) dated 14/03/1376 AH and its Executive Regulations issued by Minister of Finance Decision No. (2082) dated 01/06/1438 AH and its Adjustment , and having reviewed the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425 AH and its Adjustment (M/1) dated 15/1/1425 AH and its Adjustment , and its Executive Regulations issued by Minister of Finance Decision No. (1535) dated 11/6/1425 AH and its Adjustment , and after reviewing the working rules of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH. And relevant laws and regulations.

Procedurally, since the plaintiff's claim aims to cancel the decision of the Zakat, Tax and Customs Authority regarding the Zakat assessment for the year this dispute is considered one of the disputes within the jurisdiction of the Zakat and Tax Determination Committee's Circuits under the Zakat, Tax and Customs Committees' working rules, and where the plaintiff was informed of the result of the objection on 17/08/2023, and submitted the lawsuit through the electronic portal on 07/09/2023, and therefore the lawsuit was submitted within the legally prescribed period in accordance with Article (5) of the Zakat, Tax and Customs Committees' working rules, and where the lawsuit was submitted by a person with standing, which requires the Circuit to accept the lawsuit procedurally.

On the merits, the Circuit examined the papers and documents included in the case file, and the requests, defenses, and arguments of the parties, and found that the dispute lies in the defendant's issuance of the Zakat assessment for 2017AD, where the plaintiff objects to several clauses:

First clause: the plaintiff objects to the defendant's action of not allowing the deduction of the differences between the amounts in the accounting books and the social insurance certificate, which amounted to (202.181 SAR) for the year 2017AD, while the defendant argued that it added the difference of the overpaid social insurance expenses to the adjusted net profit after recalculation according to the social insurance certificate based on the calculation presented in the reply memo for the year 2017AD, and the defendant argued that what the plaintiff indicated was that these expenses were actually paid to the social insurance the defendant replied that it had recalculated the expense and found that an expense in excess of what was calculated was charged according to the salary statement provided to the defendant by the plaintiff, and based on the provisions of paragraph (1) of Article (5) regarding the expenses that may be deducted from the Executive Regulations for Zakat Collection issued by Ministerial Decision (2082) dated 1/6/1438 AH: "All ordinary and necessary expenses required for the activity shall be deducted whether they are paid or accrued, leading to the net result of the activity, provided that the following controls are met: A- It must be



an actual expense supported by documentary evidence or other indications that enable the authority to verify its validity, even if related to previous years. B- It must be related to the activity and not related to personal expenses or other activities. In the event that an expense of a capital nature is included in the expenses, the result of the activity shall be adjusted, and the fixed assets shall be included and amortized according to the statutory rates." Based on the provisions of paragraph (2) of Article (6) regarding the expenses that may not be deducted from the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution (2082) dated 1/6/1438 AH: "Expenses for which the Taxpayer is unable to prove their expenditure by supporting documents or other evidence" based on the provisions of paragraph (4) of Article (6) concerning the expenses that may not be deducted from the Executive Regulations for Zakat Collection issued by Ministerial Decision (2082) dated 1/6/1438 AH: ("The employee's share in regular retirement funds such as pension funds, social insurance, or savings funds") based on paragraph (3) of Article (20) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH: ("The burden of proving the validity of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the validity of the clauses in his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it.") Based on the above and by reviewing the documents submitted, it is clear that the plaintiff was content to submit copies of the social insurance certificate and an extract from the social insurance in addition to an extract from the upon reviewing the documents submitted by the plaintiff, it turns out that the social insurance extract shows the amounts paid during the year in dispute, and by recalculating the extract, it turns out that it does not correspond to what is stated in the social insurance certificate, and the plaintiff did not provide a settlement for these differences and was unable to provide bank disbursement documents proving that it paid the social insurance expense mentioned in her declaration in the amount of (202,181 SAR since the plaintiff did not submit a settlement of the overpaid differences, in addition to her inability to prove the payment of the overpaid social insurance expenses for 2017AD, the burden of proof falls on the plaintiff, which is why the Circuit decided to reject the plaintiff's objection to the social insurance clause for 2017AD.

With regard to the second clause: foreign purchases for the year 2017AD, the plaintiff objects to the defendant's action of adding foreign purchase expenses in the amount of (18,365) riyals and profiting from them at a rate of (15%). The plaintiff argued that the company's activity is medical and does not engage in the usual import and resale activities in a commercial manner, and that the amount included in the tax return is (zero), as it acknowledged that there were no foreign purchases for the year in question. The plaintiff argues that all of the company's expenses are audited by a certified public accountant licensed to practise accounting and auditing in the Kingdom of Saudi Arabia. The defendant argued that it compared the external purchases in the claimant's return (zero) with the customs statement requested internally from



the customs circuit (18,365 riyals) and added 15% to the difference, amounting to 2,754 riyals. When the plaintiff was asked about imports amounting to SAR 18,365, the defendant requested that the plaintiff provide an analytical statement of the amount by email. The plaintiff's response was limited to providing a clearance report extracted from the company's account stating that there were no imports, while the report extracted from the defendant's system shows that there were imports amounting to SAR 18,365. Based on the provisions of paragraph (1) of Article (5) relating to expenses that may be deducted from the Executive Regulations for the Collection of Zakat issued by Ministerial Decision (2082) dated 1/6/1438 AH, 'All normal and necessary expenses required for the activity, whether paid or due, shall be deducted from the net result of the activity, provided that the following conditions are met: A- The expenses must be actual expenses supported by documentary evidence or other evidence that enables the Authority to verify their authenticity, even if they relate to previous years. B- They must be related to the activity and not related to personal expenses or other activities. C- They must not be of a capital nature, and in the event that an expense of a capital nature is included in the expenses, the result of the activity shall be adjusted accordingly, and it shall be included in the fixed assets and consumed in accordance with the statutory ratios.' Based on paragraph (3) of Article (20) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH: ("The burden of proving the accuracy of the clauses and any other information contained in the zakat payer's return lies with the Taxpayer. And if he is unable to prove the accuracy of the information contained in his return, the Authority may refuse to approve the clause that cannot be proven by the Taxpayer or make an assessment in accordance with the Authority's view in light of the circumstances and facts related to the case and the information available thereto"). And based on the above, and since the import statement issued by the General Authority for Customs is a basic presumption from a neutral third party, and since it has been shown that the defendant's action of amending the plaintiff's business results is due to the existence of differences in the value of imports that were not declared in the plaintiff's declaration, as the defendant's action was based on a comparison of imports according to the statement issued by the Customs Authority, and upon reviewing the submitted documents, it appears that the plaintiff submitted (a clearance statement for the VAT report for the period from 01/01/2017 to 23/08/2022) which indicates that there are no imports by the plaintiff, and the plaintiff did not provide the necessary reconciliation to clarify the grounds and justifications for the differences in imports amounting to (18,365) riyals, which was marked up by (15%) to become (2,754) riyals, and did not provide the supporting documents for her viewpoint as stated in her lawsuit, which shows the validity of the defendant's action of amending the plaintiff's business results with those differences, and therefore the circuit sees the rejection of the plaintiff's objection to the clause of foreign purchases for the year 2017AD.

Regarding the third clause: the plaintiff objects to the defendant's action of adding the balances of trade payables in the amount of (425,369) riyals to the Zakat base for the year 2017AD, where it explained that the payables arose as a result of the company practicing its activities and did not arise as a result of obtaining



cash amounts and did not use financing for what is intended for Acquisition and did not come due, while the defendant argued that it added (425. 369) riyals, which represents the amount that has come due according to the movement provided by the plaintiff and reconciliation with the financial statements, (I) clause (5) of Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution (2082) dated 1/6/1438 AH, which stipulates that("The Zakat threshold for Taxpayers who keep regular books and records shall be calculated as follows: First: The zakat base consists of all the funds of the Taxpayer subject to zakat, including: 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What was used in trade offers and has passed a year on it." based on the provisions of paragraph (3) of Article (20) of the Executive Regulations for Zakat Collection issued by Ministerial Decision (2082) dated 1/6/1438 AH, which stipulates that("The burden of proving the correctness of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the correctness of the clauses in his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it.") Based on the above, and where trade payables are considered a component of the Zakat base provided they are turned over or used to finance assets deducted from the base based on the documents submitted, it appears that the plaintiff did not provide the detailed movement supporting her view that the credit balances have not matured, and because there is no detailed movement of these balances showing that the balances of the first period were paid during the year, the procedure to be taken is to add the balances that have matured, and looking at the details of the detailed movement included in the defendant's reply note, which is the movement of trade payables that have matured in the amount of (425.369) riyals for the year 2017AD, which leads the Circuit to reject the plaintiff's objection to the trade payables clause for the year 2017AD.

Regarding the fourth clause: the plaintiff objects to the defendant's action of adding the balances of (accrued vacations and accrued tickets) in the amount of (1,008,293) riyals and (656,055) riyals, respectively, to the Zakat base for the year 2017AD, riyals respectively to the Zakat base for the year 2017AD, while the defendant argued that it added the credit balances for both (accrued vacations and accrued tickets) because it represents what has come due according to the movement provided by the plaintiff and reconciled with the financial statements, and based on the provisions of paragraph (I) clause (5) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution (2082) dated 1/6/1438 AH, which stipulates that("The Zakat threshold for Taxpayers who keep regular books and records shall be calculated as follows: First: The zakat base consists of all the funds of the Taxpayer subject to zakat, including: 5- Government and commercial loans and other sources of financing such as creditors,



promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What has been used in trade offers and has passed the hawl."Based on the provisions of paragraph (3) of Article (20) of the Executive Regulations for Zakat Collection issued by Ministerial Decision (2082) dated 1/6/1438 AH, which stipulates that("The burden of proving the correctness of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the correctness of the clauses in his declaration, the Authority may not authorize the clause whose correctness is not proven by the Taxpayer or make an discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it.") Based on the above, as credit balances (accrued vacations, accrued tickets) are considered as one of the components of the Zakat base, regardless of their type or type regardless of their type, source, or classification, provided that they are subject to the condition of turning over or being used to finance the assets deducted from the Zakat base without requiring turning over, and upon reviewing the documents submitted, it appears that the plaintiff provided details of the movement of the accounts (accrued vacations and accrued tickets) where it is clear that the balances do not match the corresponding lists in total and these accounts are not separated, which makes it difficult to verify the plaintiff's claim that these balances do not turn over upon reviewing the movement of the accounts provided by the plaintiff to the defendant and contained in the defendant's reply memorandum, which is represented by the movement of the accounts (accrued vacations and accrued tickets) that have turned over in the amount of (1,008,293) SAR and (656,055) SAR for the year 2017AD, which shows that the balances of the first period have been paid during the year, the procedure to be taken is to add the balances that have turned over, and the Circuit believes that the plaintiff's objection to the clause accrued vacations and accrued tickets for the year 2017 should be rejected.

With regard to the fifth clause: expenses due for 2017, the plaintiff objects to the defendant's action of adding expenses due in the amount of (1,832,131) riyals to the zakat base for 2017AD, it explained that the expenses due arose as a result of the company's activities and did not arise as a result of obtaining cash amounts, and that the financing was not used for technical purposes and had not expired. The defendant argued that it had added the amount of SAR 1,832,131, which represents the amount that had passed one year according to the movement submitted by the plaintiff and in accordance with the financial statements. It explained to the plaintiff's representative how it calculated the amount and that, according to the statement submitted, it was clear that one year had passed on the amounts added to the zakat fund, amounting to SAR 1,832,131, and that according to the analysis shown in the excerpt included in the defendant's rejoinder, it is clear which accounts have passed the year and must be added to the zakat base. Based on the provisions of paragraph (first) of clause (5) of Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision (2082) dated 1/6/1438 AH, which states: 'The zakat base shall be calculated for Taxpayers who keep regular books and records as follows: First: The zakat base shall



consist of all the Taxpayer's assets subject to zakat, including government and commercial loans and other similar sources of financing such as creditors, payment instruments, and overdraft accounts held by the Taxpayer, in accordance with the following: A. What remains in cash after one year has passed. B. What has been used to finance what is considered an acquisition. C. What has been used in trade offers and one year has passed thereto. Based on the provisions of paragraph (3) of Article (20) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision (2082) dated 1/6/1438 AH, which states: ("The burden of proving the accuracy of the clauses and any other information contained in the zakat payer's declaration lies with the Taxpayer. And if he is unable to prove the accuracy of the information contained in his declaration, the Authority may refuse to approve the clause that cannot be proven by the Taxpayer or make an assessment in accordance with the Authority's view in light of the circumstances and facts related to the case and the information available thereto"). Based on the above, the accrued expenses are one of the components of the Zakat base provided that they are turned around or used to finance the assets deducted from the Zakat base, and a review of the documents submitted shows that the plaintiff submitted the detailed movement of the accrued expenses, which shows the turnover of these balances in the amount of 832,131 SAR, which leads the Circuit to reject the plaintiff's objection to the accrued expenses clause for 2017AD.

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

Decision:

- 1- The plaintiff's objection to the social insurance clause for the year 2017 is rejected.
- 2- The plaintiff's objection to the foreign purchases clause for the year 2017 is rejected.
- 3- The plaintiff's objection to the commercial accounts payable clause for the year 2017 is rejected.
- 4- The plaintiff's objection to the clause of due vacations and tickets for the year 2017 was rejected.
- 5- The plaintiff's objection to the clause of due expenses for the year 2017 was 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.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-171190

Case No. Z-2023-171190

Keywords:

Zakat - Adjustments to net profit - Estimated profits for unauthorized contracts - Acceptance of the Authority's appeal - Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority (ZTCA) objected to the decision of the First Circuit for the adjudication of income tax violations and disputes in Jeddah Governorate No. (IZJ-2022-2569), where the Taxpayer's appeal lies on the clause (deduction of delayed government debts) that the Authority did not deduct the clause (5,116,986 riyals) from the zakat base for 2018AD, and the Authority's appeal lies on the clause (estimated profits for unauthorized contracts) because it added unauthorized contracts to the net profit when assessing it, but the supporting documents were not provided. The Appellate Committee found that the Authority submitted an Excel spreadsheet of the contracts, and after reviewing it, it is clear that the spreadsheet did not include all entities, as it only included a portion of the amount of SAR 160,734,610, and this amount included the name of the entity contracted by the Taxpayer and the name of the Taxpayer as shown in the spreadsheet. This means partially accepting the Authority's appeal and amending the decision of the Adjudication Circuit in this clause in the amount of SAR 160,734,610 , and accepting the Taxpayer's appeal.

Document:

- Paragraph (1) of Article (70) of [The Executive Regulations of the Sharia Procedure Law issued by the Minister of Justice Decision No. \(39933\) dated 19/05/1435 A.H.](#)

Facts:

The appeal filed on 24/01/2023 from/... National ID number (...) In his capacity as Vice Chairman of the Board of Directors of the Appellant Company in accordance with the Articles of Association, the appointment decision and the commercial register, and the appeal filed on 26/01/2023 from the Zakat, Tax



and Customs Authority (ZTCA), against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2569) issued in Case No. (Z-82235-2021) related to the Zakat assessment for the year 2018AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, where the decision of the Adjudication Circuit ruled as follows:

- 1- Accepting the plaintiff's objection to the difference between Revenues and VAT returns.
- 2- Rejecting the plaintiff's objection to the clause of discretionary profits for import teams.
- 3- Accepting the plaintiff's objection to the clause of estimated profits for unauthorized contracts.
- 4- Rejecting the plaintiff's objection to the retained earnings difference clause.
- 5- Rejecting the plaintiff's objection to the clause of other credits.
- 6- Rejecting the plaintiff's objection to the non-discounting clause.
- 7) Rejecting the plaintiff's objection to the clause on the non-deduction of overdue government debts.
- 8(a) - Plaintiff's objection to the non-discounting clause for payments to suppliers was rejected.
- 8(b) - Plaintiff's objection to the prepaid expenses clause is dismissed.
9. Rejecting the plaintiff's objection to the clause on the non-deduction of employee advances.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies in the clause (deduction of late government debts) that the Authority did not deduct the government debts in the amount of (5,116,986) riyals from the Zakat base for the year 2018AD, and he stated that he attached all the supporting documents consisting of the analytical statement of these debts and official letters demanding the collection of the debt. He also explained that the amounts are dues of the company to government agencies from the years before 2010 until 2017AD, and emphasized that he tried to collect these amounts several times without response from these agencies, so the Taxpayer requests that these debts be deducted from the company's Zakat base for the year 2018AD. The Taxpayer also objects to the clauses (estimated profits on import difference), (retained earnings difference), (other credits), (non-deduction of investments in the capital of foreign companies - the debtor partner's neighbor), (deduction of payments to suppliers), (expenses paid), and (employee advances). Therefore, the Taxpayer requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above reasons.

With regard to Authority's appeal against the decision of the Adjudication Circuit, its appeal lies with regard to the clause (estimated profits for unauthorized contracts) that it added the clause unauthorized contracts to the net profit due to the failure to provide supporting documents, as the Taxpayer was previously requested to provide a detailed statement of all contracts for 2018 (name of the contracting party - contract



value - implemented from the contract - remaining contract), but the Taxpayer provided a statement of government customers worth (55, 003,487) riyals and the contract of the Ministry of Defense worth (603,051) riyals and the rest for private parties, while it turned out that the amount recorded in the automated system as contracts for 2018 totaled (243,151,464) riyals, and therefore the amount was profitable as follows: total contracts according to the automated system (243,151,464) - Government contracts according to the Taxpayer's statement (55,606,534) = Difference Unauthorized contracts (187,544,930), 10% unauthorized contracts difference profit (18,754,493). Since the decision under appeal was based on the fact that the Authority did not provide a statement of government contracts for 2018AD, the Authority provided an Excel statement of these contracts, which was extracted from the Authority's automated system, and since the Taxpayer did not provide a statement of all these contracts and did not provide a justification for this difference, the burden of proof falls on the Taxpayer. Therefore, the Authority maintains the validity of its procedure and requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above reasons.

On Monday, February 12, 2024, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision On the merits, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, 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 means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits of the appeal of the Authority regarding the clause (Revenue Difference and Value Added Declarations), and where Article 70 of the Sharia Procedure Law issued by Royal Decree No. M/1 dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the lawsuit is set, the content of the lawsuit and the answer must be



monitored before the agreement is recorded, taking into account that the origin of the lawsuit is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or circuit, provided that the merits of the lawsuit or some of it is among those agreed upon." Based on the above, and where it has been proven to this Circuit the Authority's request to leave the appeal as stated in the letter issued by it in the supplementary appeal list submitted on December 24, 2023, which includes: "Firstly, the Authority appeals against clause (1) of the Circuit's decision to accept the plaintiff's objection to the difference between Revenue and value-added declarations. Her point of view is as follows: - the Authority would like to inform the Honorable Circuit that it has withdrawn its appeal in relation to the above-mentioned clause in particular and the consequences of the Authority's appeal for this clause in accordance with the decision of the Adjudication Circuit, which concludes that the Circuit accepts the abandonment of the litigation."

Regarding the Authority's appeal regarding the clause (Estimated Profits for Unauthorized Contracts), and where its appeal lies in the fact that it added the clause unauthorized contracts to the net profit at the time of assessing, due to the lack of supporting documents. Based on the above, and where the dispute lies in the failure of the Authority to submit the statement of contracts extracted by it; as the total amount of contracts as shown is (243,151,464) riyals and that the Authority's action was to maximize the difference in contracts, and upon reviewing the case file; and where the Authority submitted an excel statement of contracts and after reviewing it, it is clear that the statement did not include all parties as it included only part of the amount of riyals(160,734,610) riyals, and this amount included the name of the entity contracted by the Taxpayer and the name of the Taxpayer as shown in the statement, and with regard to the rest of the amount, it did not clarify the names of the contracted entities except that it came with the amounts only, which leads the Circuit to partially accept the Authority's appeal and amend the decision of the Adjudication Circuit in this clause in the amount of (160,734,610) riyals and reject the rest.

Whereas, regarding the Taxpayer's appeal regarding the clause (Discounting of overdue government debts), and where his appeal lies in the fact that the Authority did not discount the government debts in the amount of (5,116,986) riyals from the Zakat base for the year 2018AD, and states that he attached all the supporting documents represented by the analytical statement of these debts and official letters demanding the collection of the debt, and explained that the amounts are dues of the company with government agencies from the years before 2010 until 2017AD, and emphasizes his attempt to collect these amounts several times without response from these agencies. The fatwa number (23408) dated 18/11/1426 AH issued by the Permanent Committee for Scientific Research and Ifta regarding the debts owed by government entities stated the following: "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran:" (So fear Allah as much as you are able), and since zakat is a form of support, it is not obligatory for a person who cannot collect it and



does not have any of it in their hands." based on the above, it is clear that the Authority did not accept the deduction of the overdue government debts and argues that these debts to government agencies represent debts to a solvent person and therefore zakat is due, and where the Taxpayer argues that these amounts represent a debt to a solvent person and that these amounts cannot be collected due to the delay of that entity and not due to his negligence looking at the facts of the dispute over the clause, it is clear that it is limited to whether or not to accept its deduction and whether or not it represents a debt that cannot be collected, and it is clear that the Taxpayer presented an analytical statement of the late debts from before 2010 until 2017AD, and also presented official communications to the entities to claim these debts, represented by (Hospital .. - City...) It is clear from the Taxpayer's case and the documents submitted that the clause represents a debt owed by the Taxpayer that cannot be collected, and the reason is not due to the Taxpayer, but to the agency's delay and not his negligence, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit on this clause.

Regarding the Taxpayer's appeal on the remaining clauses in the case. Whereas there is no fault in the court's adoption of the grounds for the contested decision without adding to them, since it deemed that those grounds were sufficient and did not require the addition of any new information, because in upholding it on the grounds set out in those reasons, it confirmed that it did not find in the objections raised against the decision anything that warranted a response beyond what was contained in those reasons. That being the case, and since it has been established that the decision under appeal in the dispute concerning the contested clauses is consistent with the valid reasons on which it is based and sufficient to support its ruling, as the court that issued it examined the substance of the dispute and reached the conclusion set out in its ruling. This court did not find anything that would warrant correction or comment in light of the arguments presented before it. This court therefore rejects the appeal and upholds the decision of the court of first instance in its entirety with regard to the remaining clauses of the claim, based on the reasons given.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer / Company ..., Commercial Registration (...) , Unique Number (...) The appeal submitted by the General Authority of Zakat and Tax against the decision of the first division regarding violations and disputes of income tax in Jeddah with number (IZJ-2022-2569) issued in case number (Z-82235-2021) related to the zakat assessment for the year 2018AD.

Second: On the Merits:

1 - Acceptance of the withdrawal of the dispute regarding the authority's appeal on the clause (Revenue differences and value-added declarations).



2 - Acceptance of the authority's appeal partially and amending the decision of the division regarding the clause (estimated profits for unreported contracts).

3 - Rejection of the Taxpayer's appeal and upholding the decision of the division regarding the clause (estimated profits on import differences).

4 - Rejection of the Taxpayer's appeal and upholding the decision of the division regarding the clause (retained earnings differences).

5 - Rejection of the Taxpayer's appeal and upholding the decision of the division regarding the clause (other credit balances).

6 - Rejection of the Taxpayer's appeal and upholding the decision of the division regarding the clause (not deducting investments in the capital of foreign companies - debtor partner's account).

7 - Acceptance of the Taxpayer's appeal and canceling the decision of the division regarding the clause (deduction of delayed government debts).

8 - The Taxpayer's appeal is rejected and the decision of the division regarding the clause (deduction of advance payments to suppliers) is upheld.

9 - The Taxpayer's appeal is rejected, and the decision of the division regarding clause (paid expenses) is upheld.

10 - The Taxpayer's appeal is rejected, and the decision of the division regarding clause (employee advances) is upheld.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-192728

Case No. Z-2023-192728

Keywords:

Zakat - Adjustments to net profit - Realized gains on available-for-sale securities - Acceptance of the Authority's appeal

Summary:

The Zakat, Tax and Customs Authority (ZTCA) appeals the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh (IFR-2022-6685), where its appeal is based on the clause (Accrued Expenses), claiming that for the year 2015AD the balances do not match the financial statements, and the clause (Available for Sale Securities), claiming that there was a sale movement on the investments in all years in dispute, indicating that the investments are considered as trade offers and not for channeling, and the clause (Realized Profits from Available for Sale Securities for the years 2015, 2016 and 2017), claiming that they are funds that left the investee company and excluded them from its accounts and its zakat base. The Appellate Committee found that the Authority argues that the funds came out of the investee company and excluded them from its accounts and its Zakat base under the heading of dividends and are considered Revenues realized from the investment in the investee company, and that these Revenues were subject to Zakat in the investee companies in a year prior to the year in which they were distributed and therefore subject to Zakat in the investee company as income added to the Revenues of the investee company in a year subsequent to the year in which they were subject to Zakat in the investee companies, since the Taxpayer did not provide evidence that this argument is incorrect. Consequently, the authority's appeal is accepted, and the decision of the adjudication committee is canceled.

Document:

- Paragraph (4,5) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal filed on 25/04/2023, from /..., National ID No. (...) Was considered as the statutory representative of the appellant company under its articles of incorporation, and the appeal filed by the Zakat, Tax and Customs Authority on 26/04/2023 against the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh with number (IFR-2022-6685) issued in Case No. (Z-82799-2021) related to the Zakat assessment for the years 2015 to 2018AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: Acceptance of the plaintiff's objection/ Company ... , Commercial Register No. (...) On the decision of the Defendant/Zakat, Tax and Customs Authority procedurally.

Secondly: On the merits:

- 1- Cancel the defendant's decision regarding the clause "Available for Sale Securities".
- 2- Cancel the defendant's decision regarding the clause (unrealized profits from available-for-sale securities).
- 3- Cancel the defendant's decision regarding the clause "Realized profits from available-for-sale securities".
- 4- Annulment of the defendant's decision regarding the "creditors" clause.
- 5- Annul the defendant's decision regarding the clause "Accrued Expenses".
- 6- Reject all other objections.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal is in relation to the clause (Available for Sale Securities). It claims that the Authority disallowed the value of available for sale financial investments amounting to (29,749,430) riyals, (24,879,431) riyals, (18,404,913) riyals, and (16,279,297) riyals for the years 2015 to 2018AD, respectively, due to the existence of a sale movement, , respectively, due to the presence of a sale movement in all years, which indicates that their purpose is to trade, and upon objection, the Taxpayer submitted the Board of Directors' decision dated 10/12/2008, which recommends investing in the following companies: (...- ... — ... -it is clear that one of the objectives of the investment is to evade paying zakat on the cash amount at the end of the year by deducting these investments from the zakat base, and by reviewing the financial statements for the years under study, it is clear that part of the shares were sold in all the years under study, and the existence of sales operations confirms that these investments are for the purpose of trading in addition to the presence of a cash balance within the investments, which indicates that it is an investment fund, and two basic conditions must be met



to consider the investment as a long-term investment, namely: as one of these two conditions does not apply to the company's investments, the Taxpayer's objection was rejected, and the Authority's action was upheld in Appeal Decision No. (1670) for the year 1438 AH and Appellate Circuit Decision No. (IR -2021-23), while the Circuit's reasoning is incorrect and contrary to the statutory requirement, the Authority responded that it is incorrect and contrary to the statutory requirement. With regard to the Authority's appeal regarding the clause (Realized profits from available-for-sale securities for the years 2015, 2016 and 2017), where the Authority, when assessing, did not allow adjusting the net profit by the value of dividends received from investing in available-for-sale securities, as they are funds that came out of the invested company's liability and excluded them from its accounts and its Zakat base under the clause of dividends and are considered income realized from investing in the invested company, although these Revenues were subject to Zakat in the invested company, but this was done in a previous year for the year in which they were distributed, and therefore they are subject to Zakat in the invested company although these Revenues were subject to zakat in the investee companies, this was done in a year prior to the year in which they were distributed, and therefore they are subject to zakat in the investee company as income added to the investee company's Revenues in a year subsequent to the year in which they were subject to zakat in the investee companies, and this is evident from the statement of changes in equity of investee companies, and an example of this is the distributions of ... Company. Accordingly, the Taxpayer's objection was rejected and the Authority's action in not adjusting the net profit by dividends was upheld in Appeal Decision No. (1479) of 1436 H. As for the Circuit's reasoning, the Authority responded that it is incorrect and contrary to the statutory requirement. With regard to the Authority's appeal regarding (Accrued Expenses (2015 and 2018)) and (Accrued Expenses (2016)), the Authority clarified with regard to 2015: upon reviewing the data submitted for accrued expenses for the year 2015AD upon examination and with objection, it turned out that the balances do not match the financial statements, so the examiner's action was supported by adding the first or last period, whichever is less, based on paragraph (second) (5) of Article (4) of the executive regulation issued by Ministerial Decision No. (2082) dated 1/6/1438 AH corresponding to 28/2/2017 AD, which states that the following shall be added to the Zakat base:" .5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What has been used in trade offers and has passed the hawl" and paragraph (3) of Article (20) of the Executive Regulations issued by Ministerial Decision No. (2082) dated 1/6/1438 AH corresponding to 28/2/2017AD, which states that: "The burden of proving the correctness of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in the event that the Taxpayer is unable to prove the correctness of what is contained in his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make an discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." As for the year 2016AD, the Taxpayer did not submit a detailed



statement with the objection, so the statement submitted at the time of examination was relied upon, and by reviewing the statement submitted at the time of examination, it became clear that the accrued expenses of (420.435 riyals) had turned around , and therefore it is clear that the Authority's action to add what has turned into the Zakat base is correct based on paragraph (II) (5) of Article (4) of the Executive Regulations issued by Ministerial Decision No. (2082) dated 1/6/1438 AH corresponding to 28/2/2017AD, as for the year 2018: upon examination, the Taxpayer provided a detailed statement corresponding to the ending balance in the financial statements, which shows that the accrued expenses balance for the year 2018 amounted to (2,202,420) riyals, on objection, the Taxpayer submitted a detailed statement corresponding to the financial statements, but upon examination of the statement, it was found that the Taxpayer zeroed out the beginning balance of the period, which made it not match the ending balance of the account in 2017AD, and the movement during the year did not match the financial statements, so when examining the objection, reliance was placed on the statement submitted during the examination, which confirms the validity of the Authority's action by adding the amount of (2,202,420) SAR based on the aforementioned article, therefore, the Authority requests the reversal of the decision of the Dispute Resolution Circuit on the clauses under appeal for the reasons set forth above. This decision was not accepted by the Taxpayer (Company ...), so he filed a list of appeals, which was reviewed by the Circuit and included the following statement: "The Taxpayer requests the acceptance of his appeal and the reversal of the decision of the Adjudication Circuit.

On Thursday, on: 27/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, through video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08/04/1445 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 reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, 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 means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

The Authority's appeal is regarding the clause "Securities available for sale", and the Authority's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as it claims that there was a sale



movement on the investments in all the years in dispute, which indicates that the investments are considered as offers for trade and not for the purpose of Qania. Based on paragraph (4/a) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which stipulates that "Investments in establishments inside the Kingdom - in partnership with others - if those investments are subject to the collection of zakat under this regulation, and if the investment in those establishments is not subject to collection, it shall not be deducted from the base." Based on Article 20 (3) of the regulation, which stipulates that "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, and since two basic conditions must be met for investments to be considered as Zakat offerings and may be deducted from the Zakat base, namely the documented intention of the authority holder stating the intention of the investment, and the absence of sales made during the year on those investments, and by reviewing the case file, it appears that the dispute lies in the Authority's refusal to accept the deduction of financial investments available for sale for the years 2015 to 2018 due to a sale movement in the investments, but the Taxpayer argues that the company's intention is documented by a board of directors' resolution and the sale process made on the investments resulted from the need to deal with liquidity issues and that Ed.

Regarding the Authority's appeal regarding the clause "Realized profits from available-for-sale securities for the years 2015, 2016, and 2017", the Authority's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as it claims that it is money that has left the investee company and excluded it from its accounts and its Zakat base. Based on Article 20(3), paragraph (3), which stipulates the following: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, and upon reviewing the case file, it is clear that the dispute between the parties lies in the Taxpayer's argument that the profits have been zakatized in the investee companies and their addition is considered as zakat deduction however, the Authority argues that the funds came out of the investee company's assets and excluded them from its accounts and its Zakat base under the heading of dividends and are considered Revenues realized from the investment in the investee company, and that these Revenues were subject to Zakat in the investee companies in a year prior to the year in which they were distributed and therefore subject to Zakat in the investee company as income added to the Revenues of the investee company in a year subsequent to the year in which they were subject to Zakat in the investee companies, since the Taxpayer did not provide



evidence that the Authority's argument is not correct; therefore, the Circuit concludes to accept the Authority's appeal and cancel the decision of the Adjudication Circuit regarding this clause.

Regarding the Authority's appeal regarding the clause (Accrued expenses for 2015 and 2018) and the clause (Accrued expenses for 2016), where the Authority's appeal is to dispute the decision of the Adjudication Circuit regarding this clause; it claims that for 2015, the balances do not match the financial statements, and for 2016, it claims that the Taxpayer did not submit a detailed statement with the objection, so the statement submitted at the time of the examination was relied upon for 2016, it claims that the Taxpayer did not submit a detailed statement with the objection, so the statement submitted at the time of the examination was relied upon, and for 2018AD, it claims that the Taxpayer zeroed out the beginning balance of the period, which did not match the ending balance of the account. Based on paragraph number (5) of clause (First) of Article (4) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH which states: "The zakat base consists of all the Taxpayer's assets subject to zakat, including: 5- government and commercial loans and other sources of funding such as creditors, promissory notes, and overdraft accounts that are owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. (c) What has been used in trade offers and has passed the hawl", and based on the text of Article 20(3) of the Tax Law, which stipulates the following: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, trade payables and accrued expenses are considered a component of the Zakat base, provided they are turned over or used to finance the assets deducted from the Zakat base, and a review of the case file and the defenses and documents it contains reveals the following: with regard to the years of disagreement 2015 and 2018AD, it appears that the Taxpayer submitted the audited financial statements in addition to the analytical statements, and by reviewing the analytical statements, it is clear that the balances match the financial statements and that the amounts that have passed the hawl are (2,659,237.08 SAR) for 2015 and (557,784.87 SAR) for 2018AD, which leads the Circuit to partially accept the Authority's appeal and modify the decision of the Adjudication Circuit regarding this clause. As for the year 2016AD, it is clear that the Taxpayer submitted the audited financial statements but did not submit the analytical statement of the detailed movement of the disputed clause, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit regarding this clause.

With regard to the Taxpayer's and the Authority's appeal on the remaining clauses at issue in the case, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them if it determines that these reasons make it unnecessary to introduce anything new, because in upholding them,



it is clear that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and since this is the case and it is proven that the decision under appeal regarding the dispute regarding the clauses under appeal was consistent with the valid reasons on which it was based and sufficient to carry its judgment since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants censure or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal, reject the Authority's appeal, and uphold the decision of the Adjudication Circuit with respect to the rest of the clauses in the case, in accordance with its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer / Company ..., Commercial Registration (...) , Unique Number (...) The appeal submitted by the Zakat, Tax and Customs Authority against the decision of the third circuit regarding violations and disputes of income tax in Riyadh with number (IFR-2022-6685) issued in case number (Z-82799-2021) related to the tax assessment for the years from 2015 to 2018.

Secondly: On the Merits:

1- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause "Available for Sale Securities".

2- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (unrealized profits from available-for-sale securities for the years 2015, 2016, 2017AD, and 2018).

3- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Realized profits from available-for-sale securities for the years 2015, 2016, and 2017).

4- Rejecting the Authority's appeal and amending the decision of the Adjudication Circuit with respect to the (creditors) clause.

5- Regarding the Authority's appeal on the clause (Accrued Expenses):

A. Accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit regarding (2015 and 2018).

B- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit (2016).

2- Rejection of the Taxpayer's appeal and upholding the decision of the circuit regarding the clause (related parties).



7- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause "Projects Under Implementation (2015 and 2016)".



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-194327

Case No. Z-2023-194327

Keywords:

Zakat - Adjustments to Net Profit - Acceptance of Authority's appeal

Summary:

The Zakat, Tax and Customs Authority (ZTCA) objected to the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Riyadh (IFR-2023-90897), as its appeal is based on the clause (Adjustment of Net Profit) to cancel the decision of the Adjudication Circuit on the basis that the calculation of zakat is based on the adjusted net profit or the zakat base, whichever is greater, and the ZTCA found that the Taxpayer claims to calculate zakat according to the zakat base even if the zakat base is less than the adjusted net profit. Whereas the Appellate Committee found that the text of clause (II/9/i) of Article (IV) of the Executive Regulations for Zakat Collection stipulates that "the Zakat base must not be less than the adjusted profit as a basis for calculating Zakat", which shows the correctness of the Authority's procedure in taking the adjusted profit as a minimum threshold for the Zakat base. The implication of this; acceptance of the authority's appeal and cancellation of the decision of the adjudicating circuit.

Document:

- Paragraph (1) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal was heard on: 2023/05/03 AD, from the Zakat, Tax and Customs Authority (ZTCA), on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh, No. (IFR-2023-90897) issued in Case No. (Z-90897-2022) related to the 2016 Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:



First: the plaintiff/company's objection was rejected.... (unique number...) On the decision of the defendant/Zakat, Tax and Customs Authority regarding the clause of advance payments at issue in the case.

Secondly: the decision of the defendant, the Zakat, Tax and Customs Authority, against the plaintiff, ... (unique number...) Related to the adjustment of the net profit at issue.

As this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it filed a list of appeals, which included the following:

As the Authority disagrees with the decision of the Appellate Circuit, it claims that with regard to the clause "Adjusting Net Profit", the Authority claims that the decision of the Appellate Circuit should be overturned on the grounds that zakat is calculated based on the adjusted net profit or the net zakatable base, whichever is greater, and where the Authority finds that the Taxpayer claims zakat according to the zakatable base even if the zakatable base is lower than the adjusted net profit even if the Zakat base is less than the adjusted net profit, and where the Taxpayer's Zakat base is calculated based on the adjusted net profit or the net Zakat base, whichever is greater, and the Authority reports that the Taxpayer's case is applicable to the regulation because the Taxpayer's Zakat return was filed after the Zakat Regulation of 1438H came into effect.

On Sunday, 14/07/2024, 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, through video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 8/4/1445 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 reviewing the case documents and the appeal list submitted by the Authority, 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 means that the appeal request is accepted procedurally, as it was submitted by a person with standing, and within the statutory period prescribed for its conduct.

On the merits of the Authority's appeal with regard to the "Adjusted Net Profit" clause, the Authority requests the annulment of the decision of the Adjudication Circuit on the basis that Zakat is calculated based on the adjusted net profit or the net Zakat base, whichever is greater, and where the Authority finds that the Taxpayer claims that Zakat is calculated according to the Zakat base according to the Zakat base whereas the Taxpayer's Zakat base is calculated based on the adjusted net profit or the net Zakat base, whichever is



greater, and the Authority reports that the Taxpayer's case is applicable to the regulation because the Taxpayer's Zakat declaration was filed after the Zakat Regulation of 1438H came into effect. Based on clause (II/9/i) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decree No. (2082) dated 1/6/1438H, which stipulates that "When calculating the Taxpayer's zakat base, the base shall not be less than the adjusted net profit for zakat purposes as a minimum." Based on the above, and the Circuit's review of the case file, it found that the dispute lies in the Taxpayer's objection to the Authority's procedure by adopting the adjusted net profit and demands that zakat be calculated based on the zakat base, and where the text of Clause (II/9/i) of Article (IV) of the Executive Regulations for Zakat Collection referred to above states that the zakat base must not be less than adjusted profit as the basis for calculating zakat, and where the date of submission of the Taxpayer's return was 19/08/1438 AH, i.e. After the issuance of the Zakat Executive Regulations issued by Resolution No. (2082) and dated 01/06/1438 AH was 19/08/1438 AH, i.e. After the issuance of the Zakat Executive Regulation issued by Decision No. (2082) dated 01/06/1438 AH, and therefore, since the third clause of the regulation stipulates that it applies to all Taxpayers from the date of issuance of this decision, what applies to the year in question is the provisions of the aforementioned regulation is the provisions of the aforementioned regulation, which shows the correctness of the Authority's procedure in taking the adjusted profit as a minimum threshold for the Zakat base, which makes it necessary for the Circuit to accept the Authority's appeal and cancel the decision of the Dispute Resolution Circuit regarding the clause (Net Profit for 2016).

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from its submitter, the Zakat, Tax and Customs Authority against the decision of the third division regarding violations and disputes of income tax in Riyadh with number (IFR-2023-90897) issued in case number (Z-90897-2022) related to the Zakat assessment for the year 2016AD.

Secondly: On the Merits:

Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Net Profit for 2016), in accordance with the reasons and rationale provided in this decision.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-169242

Case No. Z-2023-169242

Keywords:

Zakat - Adjustments to Net Profit - Zakatable Profits - Acceptance of Authority's Appeal

Summary:

The Zakat, Tax and Customs Authority (ZTCA) appeals the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Jeddah Governorate No. (IZD-2022-2450), as its appeal lies on the clause (Zakat Dividends for 2017) due to a dispute over the deduction of dividends received. The Appellate Committee found that the Taxpayer may deduct dividends, and that the dispute over this clause is an evidentiary dispute, as the Taxpayer did not provide documents for 2017 other than the undated distribution decision. Consequently, the authority's appeal is accepted, and the decision of the adjudication committee is canceled.

Document:

- Paragraph (8) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 12/01/2023 by the Zakat, Tax and Customs Authority (ZTCA) against the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Jeddah Governorate No. (IZD-2022-2450) issued in Case No. (Z-68151-2021) related to the Zakat assessment for the years 2017 and 2018AD, was considered in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: The Taxpayer's claim was filed against the Zakat, Tax and Customs Authority:

First: confirmation of the end of the dispute based on the plaintiff's agreement to take action against the defendant on the clause of non-deductible expenses (commissions and incentives) for the year 2017AD.



Second: confirmation of the end of the dispute based on the plaintiff's agreement to take action by the defendant on the clause of non-deductible expenses (donations) for the year 2017AD.

Third: accepting the plaintiff's objection to the clause of Zakat profits for the years 2017AD and 2018AD.

Iv: rejecting the plaintiff's objection to the dividend difference clause for the years 2017AD and 2018AD.

As this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it filed a list of appeals, which included the following:

The Authority objects to the decision of the Appellate Division, claiming that with regard to the clause (clause Zakat Dividends for 2017), it has disallowed the deduction of dividends received for 2017 from the adjusted profit of (9,950,000 riyals), based on Note (2) in the financial statements, as it recognizes investments using the cost method, and upon reviewing the objection, it turns out that the Taxpayer's objection lies in his request to approve the deduction from net income of local investment dividend income of (9,950,000 riyals) for the year 2017AD, since he distributed them during the year and discharged them from his liability, and with reference to the Taxpayer's objection, it turns out that the amount disputed is the distribution of profits of investments in local companies received during the year 2017AD, and by reviewing the lists of invested companies "Company .company ..., Company ..." it turns out that the dividend distributions were made from the balance of the rounded profits of the invested companies, and with reference to the cash flow statement within the Taxpayer's financial statements, account statements, entries and transfers provided by the Taxpayer; it turns out that the Taxpayer distributed profits during the year amounting to (21,458,501) riyals, in light of the above, the Taxpayer's objection was rejected because the company recognizes investments using the cost method, and dividends are recorded as income to the company, so it is not correct to exclude the profits of investments from the adjusted profit even if they are distributed and the distributions are deducted not exceeding the balance of the carried forward profits accordingly, and based on Article (4) of the first paragraph (6) of the Executive Regulations governing the collection of Zakat issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH, the Authority maintains the validity of its procedure, and the Circuit issuing the decision under appeal accepted this clause, reasoning that these profits were distributed to the partners and did not clarify that date or address what the Authority argued above, which makes the Circuit's decision flawed. Therefore, the Authority requests that the decision of the Adjudication Circuit on the clauses under appeal be overturned for the above reasons.

On Monday, January 29, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the



contents of the case file, and where the Circuit found nothing to require the presence of the parties to the appeal, the Circuit decided that the case has become ready for adjudication and issuing a decision on its subject, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Authority, 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 means that the appeal request is accepted procedurally, as it was submitted by a person with standing, and within the statutory period prescribed for its conduct.

Whereas, with regard to the Authority's appeal regarding the clause "Zakat Dividends for the year 2017", and where its appeal lies in the fact that, with reference to the Taxpayer's objection, it turns out that the amount disputed is the distribution of dividends from investments in local companies received during 2017AD, and by reviewing the lists of invested companies, it turns out that the dividends were distributed from the balance of the realized profits of the invested companies and that in 2017 the Taxpayer distributed profits during the year worth (21,458,501) riyals, including (the balance of realized profits in the first period and net income for the year including dividends from investments received during the year)

In light of the above, the Taxpayer's objection was rejected, as the company recognizes investments using the cost method, and dividends are recorded as income to the company, so it is not correct to exclude the profits of investments from the adjusted profit even if they are distributed and the distributions are deducted so as not to exceed the balance of the profits carried forward at the beginning of the year. And since paragraph (8) of clause (First) of Article (4) of the executive regulations for the collection of Zakat issued by the Minister of Finance's decision No. (2082) dated 01/06/1438 AH stated: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8- The balance of carried forward profits from previous years at the end of the year." based on the above, it was found that the dispute lies in the deduction of dividends received, and since the Taxpayer may deduct dividends, and since the dispute over this clause is an evidentiary dispute, and since the Taxpayer did not submit documents for the year 2017 except for the undated distribution decision, the Circuit concludes that the Authority's appeal should be accepted and the Circuit's decision on this clause should be overturned.

Whereas, with regard to the Authority's appeal regarding the clause (2018 Zakat Profits Clause), and after the Circuit's consideration of the merits of the dispute, and after the Circuit's review of the Authority's appeal, and where the Circuit may adopt the reasons for the decision under appeal without adding to them when it determines that those reasons do not contain anything new, because in supporting the decision with what those reasons contained, it is certain that it did not find any objections to the decision that merit a response beyond what was contained in those reasons, and whereas it is established that the decision



under appeal with regard to the dispute regarding the clause under appeal was consistent with the sound reasons that it was based on and sufficient to carry its judgment, as the issuing circuit scrutinized the dispute in it and concluded with regard to it the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and where this Circuit found that the conclusion reached by the Adjudication Circuit in its decision is correct and that the reasons on which it based its decision are sufficient to support that decision, and where this Circuit did not notice anything that warrants censure or comment in light of the defenses raised before it, which leads this Circuit to reject the Authority's appeal and uphold the decision of the Adjudication Circuit in this clause on the basis of its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the appellant, the Zakat, Tax and Customs Authority against the decision of the first division regarding violations and disputes of income tax in Jeddah province with number (IZD-2022-2450) issued in case number (Z-68151-2021) related to the zakat assessment for the years 2017 and 2018AD.

Secondly: On the Merits:

- 1- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Zakat Dividend Clause for 2017).
- 2 - Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Zakat Dividend Clause for 2018).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-170446

Case No. Z-2023-170446

Keywords:

Zakat - Adjustments to Net Profit - Profits Received - Acceptance of the Authority's Appeal - Acceptance of Taxpayer's Appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority appealed the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ITR-2022-6072), where the Taxpayer's appeal is based on the clause (Impairment losses in the portfolio of ... - Kuwait) the Authority's appeal lies on the clause (not deducting the amount of cash held in favor of the Authority against a bank guarantee for the year 2017) because they are deposits that are not deducted from the Zakat base, and the clause (not deducting the profits received from the company...) For the year 2017AD, according to the following reasons the dispute is limited to the Taxpayer's claim that the dividends received from the invested company should not be zakatized as they are already zakatized, as the Appellate Committee found that the dividends received have not been zakatized by the invested company (the Taxpayer), which is an incorrect approach as dividends are zakatized but after making sure that they are made from the carried-over profits and that the zakat of these yields is related to their circulation around their origin (investment). This means accepting the appeal of the authority and accepting the appeal of the Taxpayer.

Document:

- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (8,4) of Article (8) of [The executive regulation for collecting zakat issued by the decision of His Excellency the Minister of Finance number \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal filed on 17/01/2023 from /..., in his capacity as the Chairman of the Board of Directors of the appellant company according to the commercial register and articles of association, and the appeal filed by the Zakat, Tax and Customs Authority on 18/01/2023 against the decision of the Third Circuit for adjudicating income tax violations and disputes in Riyadh with no

(ITR-2022-6072) issued in Case No. (Z-58425-2021) related to the 2017 Zakat Tax Assessment in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

- 1- Annulment of the defendant's decision regarding the "Life Insurance for Years" clause.
- 2- Annulment of the defendant's decision with regard to the clause (non-deduction of investments for the years).
- 3- Disregarding the clause (investing in Saudi companies registered with the Authority and accounting for the years).
- 4- Annulment of the defendant's decision with regard to the clause (not deducting the amount of cash held in favor of the Authority against a bank guarantee for the years 2016 and 2017).
- 5- Annulment of the Defendant's decision with regard to the clause (not deducting the profits received from ...).
- 6- Annulment of the defendant's decision regarding the clause (not deducting losses from the sale of fixed assets for 2015).
7. Amending the defendant's decision with respect to the delay penalties clause.
8. Reject all other objections.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies with regard to the clause (investing in Saudi companies registered with the Authority and accounting with it (sports funds), the Taxpayer claims that the Authority stated that (the objection is rejected for not providing a copy of the investment portfolio from the bank), we clarify that ... " ..." licensed by Tadawul as a stock broker the company has a number of portfolios for its investments in shares, so the extracts of these portfolios, whether for the company or for any other client, are issued from the "Tadawul" system, as the sale and purchase operations and reports are done through the "Tadawul" system, and no one can modify these reports in any way, even if he is licensed to brokerage, and the Authority can verify the correctness of the data through "Tadawul", so the Authority's request to provide a copy of the investment portfolio from



the bank does not correspond to the reality of the case, as any "Capital" licensed by "Tadawul" does all operations through the "Tadawul" automated system the company has explained to the Authority that the company's investments in the shares of Saudi joint stock companies with good returns, and the company's purpose from this investment is to obtain returns (dividends) and it is not from the shares intended for trading and speculation as we explained in the introduction of this clause, and emphasizes that these investments in shares are technical offers, as the amount allocated for this investment is (25,000,000) riyals - as shown in the previous year (2014) for the years of the objection, and it was categorized by the auditor of the financial statements as "Optional portfolios (E)" and stated in (E): this represents an amount invested in mixed equity portfolios managed by the company's asset management circuit, and it is clear that the investment in Saudi equities has no movement when excluding the impact of fair value assessments from unrealized profit or loss, which proves that it is a non-traded investment in a deductible offer in accordance with paragraph (1/4) of the second paragraph of Article 4 of the Zakat regulation, as joint stock companies are Saudi companies that are accounted for by the Authority and their funds are zakatable. With regard to the Taxpayer's appeal on the clause "Non-deductibility of impairment losses in the portfolio of ... - Kuwait), claiming that it is an investment in futures and forward contracts, managed by Kamvik in Kuwait, and the company reduced and wrote off the investment in 2017AD, and the value of the reduction was recognized in the income statement, i.e. Recorded as Revenue and subject to Zakat, and whereas the company's objective and documented intention is to invest to obtain returns (profits) initially, and it recognized the reduction in the income statement as Revenue against the investment in the income statement as income against the investment, and since this investment appears in the company's financial statements as an investment deducted from its Zakat funds added to the Zakat base (capital and equity), and the company presented the financial statements of this investment for the purpose of calculating Zakat on it in accordance with the applicable instructions (Ministerial Decision 1005 and Article 4(4)(b)(ii) of the Regulation) the investment is deductible as it is money that came out of the company's estate as an investment. With regard to the Taxpayer's appeal regarding the clause (delay penalty for 2017), he claims that the company's returns were filed in accordance with the Income Tax Law and its executive regulations and paid the taxes due under it, and therefore there are no unpaid taxes that result in the calculation of delay penalties, and even if there are one or more clauses resulting from the Authority's Adjustment that represent its viewpoint in interpreting the law or regulation, they are subject to dispute between the company and the Authority it is unacceptable for the Authority to demand and take monthly late penalties on the Taxpayer, as it did not issue the assessment containing its viewpoint until more than four years after the submission of the return, and where this principle has been decided - to calculate late penalties from the date of issuing the assessment containing its viewpoint until more than four years after the submission of the return calculating fines from the date of issuing a final decision in the dispute from the Tax Appellate Committee and the Administrative Court (the Board of Grievances), the company emphasizes that it is not valid to calculate any late penalties, and therefore the Taxpayer requests the reversal of the decision of the



Circuit of Adjudication of the clauses under appeal for the above reasons. The decision was not accepted by the Zakat, Tax and Customs Authority, so it submitted an appeal list that was reviewed by the Circuit, and with regard to the Authority's appeal regarding the clause (Non-deduction of investments (long-term investment in shares of Saudi joint stock companies) for 2017), the Authority informs your esteemed circuit that it did not accept the deduction of these investments as they are classified as available-for-sale the plaintiff did not provide a copy of the investment portfolio showing the names of the companies to verify that they are Saudi joint stock companies, as paragraph (3) of Article (20) of the Zakat Collection Regulation issued in 1438 AH stipulates that: "The burden of proving the accuracy of what is stated in the Taxpayer's zakat declaration from clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven accurate by the Taxpayer or may proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." accordingly, the Authority rejected the plaintiff's objection with respect to the above clause and the Authority maintains the validity of its action. The Circuit issuing the decision under appeal also canceled the Authority's decision based on the lack of movement on the investments. The Authority responds to this by stating that your esteemed Circuit informs you that it did not accept the investment discount, as the investments are available for sale, as the financial statements indicated that the decrease in the value of the share is due to the fair value assessment we inform you that the Defendant did not provide a copy of the investment portfolio during the examination or objection stage, indicating the nature of these companies and whether they are Saudi joint stock companies or not, which led the Authority to conclude that the investment discount would not be accepted based on Article Twenty/ Paragraph (3) of the Executive Regulations for Zakat Collection issued in 1438 AH, and referring to the data it is clear that it is a repetition of what he submitted during the examination and objection phases, and he did not provide a statement of the names of the shareholding companies that they are Saudi companies and subject to trading in the Saudi market by providing a copy of the investment portfolio and the portfolio's movement statement, and this was mentioned in the Authority's reply memorandum, and the portfolio clarification shows that the amount is invested in mixed stock portfolios as long as the dispute with the Taxpayer is documentary, which ends the Authority's adherence to the validity and integrity of its procedure, based on Article (20) paragraph (3) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which stipulates: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." with regard to the Authority's appeal regarding the clause (Non-deduction of the amount of cash held in favor of the Authority against a bank guarantee for the year 2017), the Authority did not accept the



deduction of the clause on the grounds that deposits are not deducted from the Zakat base, and after referring to the financial statements, it became clear that the clause represents a bank guarantee and the provisions of Article 4 of the Zakat Collection Regulation issued in 1438 AH did not provide for the deduction of the clause from the Zakat base, so the Authority rejected the plaintiff's objection regarding the above-mentioned clause. The Circuit issuing the decision under appeal also annulled the Authority's decision as it reasoned that the money withheld as a bank guarantee is held in the public interest and is not subject to zakat. The Authority responds that after referring to the financial statements, it is clear that the amount withheld represents a bank guarantee for a tax dispute that has not been resolved by a final decision and based on the above-mentioned arguments since the amount withheld represents a bank guarantee, however, the provisions of the Zakat collection texts do not provide for this, which is specified in the second paragraph of Article 4 of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH, which specifies the clauses that are deducted from the Zakat base, the Authority evaluates its appeal on this basis for the reasons explained above. With regard to the Authority's appeal on the clause "Non-deduction of dividends received from ... However, by referring to the Taxpayer's objection submitted to the Authority, it is clear that it is not one of the objection clauses for the aforementioned year, nor is it one of the Authority's assessing clauses, which indicates that the decision was irrelevant and therefore the decision is flawed. The Authority also reports that by referring to the Taxpayer's objection submitted to the Authority regarding the verification of his objection to the above clause, it turns out that he did not object to this clause and did not previously raise it before the Authority. The plaintiff must first object to this provision before the Authority in accordance with the statutory procedures stipulated in Article 2 of the Rules of Work of the Tax Violations and Disputes Adjudication Committees, which states: "Any person in respect of whom a decision has been issued by the Authority may object to it within (60) days from the date of notification, and the Authority shall decide on the objection within (90) days from the date of its submission..." it is clear from the above that objection before the Authority is a condition for the acceptance of the grievance, and as it turns out that the plaintiff did not object to this clause before the Authority within (60) days from the date of its notification, which is why the Authority requests your Honorable Committee to dismiss the Taxpayer's grievance in this regard based on the text of paragraph 1 of Article 3 of the same rules, which states that "the decision of the Authority becomes immune and cannot be challenged before any other party in the following cases:(1) If the Taxpayer does not object to the decision within sixty (60) days from the date of its notification to him." This was supported by Appeal Decisions No. (1810) issued in 1439H and No. (1844) issued in 1439H, the operative part of which dismissed the Taxpayer's appeal on some clauses that he did not object to before the Authority, thus supporting the decision of the Trial Committee to dismiss the clauses that were included in the list of claims submitted to the Trial Committee and were not objected to before the Authority, the Authority's action was also supported by the decision issued by the First Appellate Circuit for Income Tax Violations and Disputes in Decision No. (IR_2021_177) issued in Appeal No. (z -2019-3686), which ruled to dismiss the Taxpayer's



appeal regarding the clause because it was not included in the clauses initially objected to before the Authority. With regard to the Authority's appeal regarding the clause (Investment in Saudi companies registered with the Authority and accounting with it (sports funds), the Authority clarifies to your Honorable Circuit, and after reviewing the Secretariat's website, it was found that the Taxpayer did not provide any data or documents of what was previously submitted during the objection stage or in the adjudication stage and did not commit to providing documents supporting his objection, based on the above and through the listed data, it is clear that these investments are local, and there is an exclusion movement during the years 2016/2017 and this evidence that the purpose of investing in funds is commercial and not technical offers as stated by the Taxpayer in his claim list, therefore, the Taxpayer's objection was rejected based on the regarding the Authority's appeal regarding the delay penalty clause, the Authority clarifies that the delay penalty was imposed on tax differences not paid within the statutory deadline based on paragraph (a) of Article 77 of the Income Tax Law, which stipulates that: "In addition to the penalties stipulated in Article 76 of this Law and in paragraph (b) of this Article, the Taxpayer shall pay a late payment penalty of one percent (1%) of the unpaid tax for every thirty days of delay, which includes the delay in paying the tax required for withholding and accelerated payments and is calculated from the date the tax is due to the date of payment", as well as based on paragraph (1/b) of Article 68 of the Executive Regulations of the Income Tax Law, which states: "1% of the unpaid tax shall be added to the fines mentioned in the previous article for every thirty days of delay in the following cases, including those mentioned in paragraph: - B - Delay in the payment of the tax due under the interest assessment." As the fine is consequential, and given the Authority's appeal on the above clause, it maintains the validity of its procedure in imposing the delay penalty on the unpaid tax differences. Based on the aforementioned, the Circuit's decision in the case under appeal is legally invalid and must be judicially reversed without any doubt, and the Authority requests that its appeal be accepted and the decision of the Adjudication Circuit regarding the clauses under appeal be reversed.

On Wednesday, on: 12/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 8/4/1445 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 reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, 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 means that



the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, as it relates to the Authority's appeal regarding the clause (Non-deductibility of investments (long-term investment in shares of Saudi joint stock companies) for the year 2017), and where the Authority's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, claiming that the Taxpayer did not provide the supporting documents. Based on paragraph (4/A) of Article (4) of the executive regulation for the collection of zakat issued by ministerial decision number (2082) dated 1/6/1438 AH on: "Investments in establishments inside the Kingdom - in partnership with others - if these investments are subject to the collection of Zakat under this regulation, if the investment in these establishments is not subject to collection, it shall not be deducted from the base." Based on paragraph (3) of Article (20) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH, which stipulates that: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, it is clear that the Authority's appeal regarding the discounting of long-term investments in shares of Saudi joint stock companies, where it indicated that by referring to the financial statements, it was found that the decrease in the value of the share is due to the fair value assessment and that the Taxpayer did not provide a copy of the investment portfolio showing the names of the companies to verify that they are Saudi joint stock companies, while the Taxpayer indicated that the Authority's requirement to provide a copy of the investment portfolio from the bank and that it is licensed by Tadawul and does all operations through the automated system and can print reports, is actual, and since two basic conditions must be met to consider investments as representing offers.

Regarding the Authority's appeal regarding the clause "Non-deduction of the amount of cash held in favor of the Authority against a bank guarantee for the year 2017", where the Authority's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as it claims that they are deposits that are not deducted from the Zakat base. Based on the text of paragraph (I) of Article (4) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, which stipulates that "The zakat base consists of all the Taxpayer's assets subject to zakat, including:..5- government and commercial loans and other financing sources such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows:" A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. J- What has been used in commercial transactions and has passed a year on it. Based on the above, and where it was found that the dispute between the parties was over the amount held as a bank guarantee with a bank ... (17,973,700)



riyals, and upon reviewing the documents submitted in the case file, which are (a bank guarantee for the Authority on the amounts disputed in exchange for the payment of the value of the tax, delay penalty and legal zakat due to them for the period from 2007 to 2011 dated 23/03/1436 AH corresponding to 05/01/2015 - in addition to a letter requesting the monetization of the bank guarantee dated 31/12/2020), whereas, the Authority's appeal is that the deduction of bank guarantees is not provided for in the provisions of Zakat collection, therefore, the letter of guarantee is in fact a guarantee contract provided by the company to another party, which means that it appears as a debit balance, and the wisdom of it is to ensure the seriousness of the work and the guarantee of the provider to fulfill its obligations and provide it to the beneficiary, so that the bank guarantees the applicant in committing to a specific work, in the event of non-compliance, the value of the letter is liquefied in favor of those entities to which the letter of guarantee was issued, and because the letter of guarantee is unique with certain characteristics does not take it away from this fact, and therefore the guarantee in the right of the guaranteed (beneficiary) does not entail the ownership of the money before performance, but it is a document to be fulfilled upon maturity, and because the guarantee is a guarantee of what will be due, not a guarantee of something that has been due in the customer's liability, and since the money in the letters of guarantee and credits funds in letters of guarantee and letters of credit are zakatable funds, and the amounts that the Taxpayer withheld in the letter of guarantee against the appealed clauses and therefore were withheld for the benefit of his growth, which does not prevent his full ownership and the obligation of zakat in it as long as the money remains in his ownership, which concludes the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit regarding this clause.

Regarding the Authority's appeal on the clause "Non-deduction of dividends received from ... The Authority's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as it claims that it is not part of the Taxpayer's objection for the year under appeal, nor is it part of the Authority's assessment clauses, which indicates that the decision is irrelevant. Based on paragraph (8) of clause (First) of Article (4) of the executive regulation for collecting zakat issued by the Minister of Finance's decision number (2082) dated 01/06/1438 AH, which stated the following: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8- The balance of retained earnings from previous years at the end of the year", and based on paragraph number (3) of article (20) of the executive regulation for collecting zakat issued by the ministerial decision number (2082) dated 1/6/1438 AH which stated: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, it is clear that the dispute is limited to the Taxpayer's claim not to purify the profits received from the invested company (Company ...) As they are considered previously purified, and since the authority indicated in its appeal memorandum that it did not



accept the deduction of the received profit distributions from the zakat base because the invested company deducted the distributions from the retained earnings added to the zakat base, which means they are not subject to it, while the Taxpayer clarified through his response memorandum to the authority's appeal that the assessment proves the inclusion of all profits of the year including the distributed part during the year for the invested company, therefore, upon reviewing the case file, it became clear that the decision of the division aimed to cancel the authority's procedure because the profits received have not completed a full year at the invested company (the Taxpayer), which is an incorrect approach as profit distributions are purified but only after ensuring that they are from retained earnings and that the zakat of that yield is linked to the year of its original investment. However, what the Taxpayer mentioned that the distributions were made from the profits of the year and provided a copy of the trading does not count as sufficient evidence, as the Taxpayer proved the existence of distributions but did not prove that those distributions were made from the profits of the year. Therefore, since it was established that there are retained profits amounting to (799) million riyals from the year 2016AD, while the Taxpayer did not provide evidence that the distributions were made from the profits of the year, the division concludes to accept the authority's appeal and cancel the decision of the division regarding this clause.

With regard to the Taxpayer's appeal regarding the clause "Non-deductibility of impairment losses in the portfolio of ... - Kuwait), and where the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause; he claims that he submitted his declarations in accordance with the regulations and instructions. Based on paragraph (4/b) of clause (second) of Article (4) of the executive regulations for zakat collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which states: "The following shall be deducted from the zakat base:" Investments in establishments outside the Kingdom - in partnership with others - provided that the Taxpayer includes in their zakat declaration the zakat due on these investments according to the rules stipulated in these regulations and submits them to the authority, along with audit accounts from a certified accountant in the country of investment, approved by the official authorities; if they do not comply with calculating and submitting the zakat accordingly, it will not be deducted from the zakat base. Based on the above, after review and study, it was found that the dispute lies in the Authority's procedure when treating the company's share of impairment losses in the portfolio of ... Whereas the Authority indicated that it did not accept the deduction of the losses due to the fact that they relate to foreign investments that were not initially deductible, and that the correct zakat treatment of this clause is to exclude its effect from the net profit of the company while deducting the first term balance of the investments from the zakat base, whereas, the Taxpayer has added the losses to the adjusted profit and claims to deduct them among other deductions for zakat purposes, while the Authority's response was limited to the fact that it did not accept their deduction as they relate to foreign investments that are not deductible, which leads the Circuit to accept the Taxpayer's appeal and overturn the decision of the Adjudication Circuit regarding this clause.



Regarding the parties' appeal on the clause (Investment in Saudi companies registered with the Authority and accounted for by it (Sports Funds), the Circuit considered the subject of the dispute, and since this clause is part of the clause (Fund ... Funds (Sports) and since the Adjudication Circuit's reasons for decision for this clause dealt with reasons related to another clause, in addition to the duty it had to decide only on the clause to which this clause belongs, this Circuit concludes to modify the Adjudication Circuit's decision by ruling to disregard this clause.

Regarding the parties' appeal on the delay penalty clause, and based on paragraph (a) of Article 77 of the Income Tax Law promulgated by Royal Decree No. M/1 dated 15/01/1425 AH, which stipulates that "In addition to the penalties stipulated in Article 76 of this Law and in paragraph (b) of this Article, the Taxpayer shall pay a late payment penalty of one percent (1%) of the unpaid tax for every thirty days of delay, including delays in paying the tax it is calculated from the date the tax is due to the date of payment." Based on paragraph (1) of Article (68) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425 AH, which stipulates the following: "The Taxpayer shall pay a late payment penalty of one percent (1%) of the unpaid tax for each thirty-day delay: "In addition to the fines mentioned in the previous article, 1% of the unpaid tax shall be added for every thirty days of delay in the following cases: b- Delay in paying the tax due under the Authority's assessment", and based on the text of paragraph (3) of Article (67) of the Executive Regulations of the Income Tax Law, which stipulates that "Unpaid tax means the difference between the tax paid by the Taxpayer on the statutory date and the tax payable under the provisions of the law, including the Adjustment made by the Circuit that have become final as stated in paragraph (2) of Article 71 of these regulations, including cases that are contested, where the penalty is calculated from the date of the statutory deadline for submission of the return and payment." based on the above, and with reference to the case file and the defenses and documents it contains, and since the delay penalty is calculated from the date of expiration of the deadline for filing the return to the date of payment of the due tax arising under the application of the provisions of the Law and the Adjustment made by the Authority, and since the dispute between the two parties is based on a fundamental difference, and did not arise from a significant difference in the interpretation of the statutory texts therefore, the Authority's decision to impose the delay penalty from the due date on the clauses where the Taxpayer's objection was rejected and the delay penalty on the clauses where the Authority's decision was canceled due to the loss of the original imposition of the tax is correct, which leads the Circuit to modify the decision of the Adjudication Circuit on this clause.

Regarding the Authority's appeal regarding the clause (life insurance for 2017), and where Article (70) of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister



of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the case and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where this Circuit has proven the Authority's request to leave the appeal as stated in the letter issued by the Authority in the supplementary memorandum, which includes the following: "The Authority wishes to inform the Honorable Circuit that it has left its appeal with regard to the above clause specifically and the procedures resulting from its appeal for this clause as per the terms of reference of the decision of the Disposition Circuit..." therefore, the Circuit must accept the abandonment of the litigation.

With regard to the Taxpayer's appeal on the remaining clauses at issue in the case, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them, if it determines that these reasons make it unnecessary to introduce anything new, since in upholding the decision with the content of these reasons, it is clear that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons; whereas it is established that the decision under appeal regarding the dispute regarding the clauses under appeal was consistent with the valid reasons on which it was based and sufficient to carry its judgment since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the rest of the clauses in the case, bearing in mind its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer / Company ..., Commercial Registration (...), Unique Number (...) And the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the third division regarding violations and disputes of income tax in Riyadh number (ITR-2022-6072) issued in case number (Z-58425-2021) related to the zakat tax assessment for the year 2017AD.

Second: On the Merits:

1- Acceptance of leaving the dispute regarding the authority's appeal on clause (life insurance for the year 2017).

2- Acceptance of the authority's appeal and cancellation of the decision of the division regarding clause (not deducting investments (long-term investment in shares of Saudi joint-stock companies) for the year 2017).



- 3- Acceptance of the authority's appeal and cancellation of the decision of the division regarding clause (not deducting the cash amount withheld in favor of the authority against a bank guarantee for the year 2017).
- 4- Acceptance of the authority's appeal and cancellation of the decision of the adjudication committee regarding the clause (non-settlement of the profits received from the company ... For the year 2017).
- 5- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication committee regarding the clause (unsubstantiated salaries for the year 2017).
- 6- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication committee regarding the clause (fund ... Of funds (Al-Riyadi), fund .. For ipos, Fund ..., Fund ..., Fund ..., Fund ..., Fund ... For local stocks, fund ... Kuwait, the gateway to the Gulf).
- 7- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication committee regarding the clause (fund ... Cordoba Homes 2).
- 8- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication committee regarding the clause (fund ... Al-Qanas 2).
- 9- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication committee regarding the clause (fund .. The income-generating fund).
- 10- Rejection of the Taxpayer's appeal and modification of the decision of the adjudication committee regarding the clause (Tower The office).
- 11- Modification of the decision of the adjudication committee regarding the clause (investment in Saudi companies registered with the authority and accounting for them (Al-Riyadi funds)).
- 12- Rejection of the Taxpayer's appeal and modification of the decision of the adjudication committee regarding the clause (investment in Saudi companies registered with the authority and accounting for them (...)).
- 12- Rejection of the Taxpayer's appeal and modification of the decision of the adjudication committee regarding the clause (investment in Saudi companies registered with the authority and accounting for them (...)).
- 14- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication committee regarding the clause (foreign investments (Marsa Al-Saif - Bahrain)).
- 15- The Taxpayer's appeal was rejected, and the decision of the adjudication committee regarding the clause (Foreign Investments (Promise Portfolio - Kuwait)) was upheld.



16- The Taxpayer's appeal was rejected, and the decision of the adjudication committee regarding the clause (Investments in Subsidiary and Associate Companies) was upheld.

17- The Taxpayer's appeal was rejected, and the decision of the adjudication committee regarding the clause (Non-deduction of the advance payment for the company ...) Was upheld.

18- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (non-deduction of impairment losses in the portfolio of ... - Kuwait).

19- The Taxpayer's appeal was rejected, and the decision of the adjudication committee regarding the clause (Non-deduction of the share in the losses of the subsidiary company - Company ...) Was upheld.

20- The Taxpayer's appeal was rejected, and the decision of the adjudication committee regarding the clause (Addition of creditor accounts for the year 2017) was upheld.

21- The Taxpayer's appeal was rejected, and the decision of the adjudication committee regarding the clause (Social Security Contributions with Increases) was upheld.

22- The Taxpayer's appeal was rejected, and the decision of the adjudication committee regarding the clause (Non-deduction of losses from the decline subject to tax for the year 2017) was upheld.

23- The decision of the adjudication committee regarding the clause (Delay Penalty for the year 2017) was amended.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-178265

Case No. Z-2023-178265

Keywords:

Zakat - Adjustments to Net Profit - Accepting the Authority's Appeal - Denying the Taxpayer's Appeal

Summary:

The Zakat, Tax and Customs Authority's appeal against the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-1977), as its appeal lies on the clause (excluding the dividends paid from the profit of the year 2020) , because it does not accept the reduction of the dividends adjusted with the distributed profit from the profit of the year for the year in dispute. And since it has been established to the appellate committee that what the appellant claims as a deduction of profit distributions from the adjusted net profit results in the adjusted profit not being subject to zakat collection, which contradicts what is stated in the zakat collection regulation that subjected the entire adjusted net profit of the year to legitimate zakat as it is considered a yield on capital without considering the passage of a year on it and before distribution from it, and since the passage of these profits is the passage of their origin, it becomes clear that the authority's action of not reducing the adjusted profits by the distributed profit from the profit of the year is correct. Consequently, the authority's appeal is accepted, and the decision of the adjudication committee is canceled.

Document:

- Paragraph (7) of Article (4) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)
- Paragraph (1) of Article (6) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)

Facts:

The appeal filed on February 14, 2023, from / Company ... And the Zakat, Tax and Customs Authority (ZTCA), on the decision of the Second Circuit for the Adjudication of Income Tax Violations and Disputes in



Riyadh (ISR-2022-1977) issued in Case No. Z-83160-2021 related to the 2020 Zakat assessment, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority:

The case is accepted procedurally and in substance:

1- Amending the defendant's procedure with regard to the clause of excluding dividends paid from the year's profit for 2020, by deducting the remaining amount of dividends paid in excess of the balance of retained earnings at the beginning of the period from the Zakat base (year's profit).

2- Rejecting the claim regarding the clause of excluding the financing of assets from the general profit for 2020.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

Regarding the Taxpayer's appeal, he submitted a list of appeals, which was reviewed by the Circuit, which stated that the Taxpayer requests that his appeal be accepted and that the decision of the Adjudication Circuit be overturned.

The decision was not accepted by the Zakat, Tax and Customs Authority, which filed its appeal against the challenged decision by means of an appeal regulation that included the following summary:

With regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal lies with regard to (excluding the dividends paid from the profit of the year 2020), as the appellant (the Authority) demands that the Circuit's decision on this clause be annulled on the basis that what the Taxpayer claims is to deduct the dividends from the net profit of the year, and this treatment is unfounded, as it is not mentioned in the Executive Regulation for Zakat Collection, and the Authority emphasizes that the Executive Regulation for Zakat Collection issued by Ministerial Resolution No. (2216) dated 7-7-1440 AH-A.Harticle , paragraph (7) of Article 4, explicitly states that the adjusted net profit is one of the funds subject to Zakat. Therefore, deducting part of the dividends from the net income means that this profit is not subject to Zakat. The Authority also clarifies that Chapter 3 (Article 8 and 9) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 7-7-1440 A.H. The Authority also emphasizes that the third chapter (Article 8 and 9) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 7-7-1440 A.H7-1440 AH, clarified how to modify the result of the activity, and did not include anything that allows the deduction of dividends from the year's profit as a modification of the result of the activity, on the other hand, the Authority clarifies that profits do not necessarily have to be invested in cash in order to address the full ownership, as companies rely in calculating profits on an accrual basis, meaning that Revenues are included even though they were not received in cash, and accrued expenses are incurred even though they were not paid in cash, and from this it is clear that the profit does not necessarily fulfill the condition of full ownership, and in response to the Taxpayer's viewpoint regarding the lack of turnaround on these profits, the Authority explains that the juristic characterization of profits as



money derived from the growth of the first money which is the capital, the growth may be by the nature of the thing or by labor, so growth is more general than profit, and it is also called the yield resulting from the exploitation of the exploited assets, and these profits are joined to their origin and have a single turnaround, which is around the origin, according to Shari'ah Opinion No. (19643) dated 23/5/1418 AH. In the event that the Taxpayer's objection is applied, the profits realized during the year will not be zakatable, as the Taxpayer's point of view is that the profits realized during the year will not be zakatable, as they have not yet been zakatable, if the Taxpayer's objection is applied, the money earned during the year will not be zakatable as it was not originally zakatable according to the Taxpayer's view. Rather, the company can zakat it immediately upon receipt and not wait for the passing of the hawl, which is the doctrine of Al-Awzai'i and Al-Dhahiriya and a baseentially meaningful opinion from Imam Ahmad, chosen by Shaykh Al-Islam Ibn Taymiyyah

On Thursday, April 25, 2024, 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 videoconferencing in accordance with the procedures for remote videoconferencing; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08/04/1445 A.H.; At the call of the parties, ..., National ID No. (...), appeared as an agent for the plaintiff under agency No. (...), and ... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) On March 19, 1445 A.H., the defendant's representative was asked what it wished to add, and it stated that it adheres to what was previously submitted in this case. When the plaintiff's agent was presented with this information, he replied that he was sticking to what had already been submitted in this case. When the parties were asked what they wished to add, they replied in the negative, so the Circuit decided to close the hearing and deliberations.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, 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 means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

Whereas, with regard to the Taxpayer's appeal regarding the clause (excluding the financing of assets from the general profit), the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them if it determines that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the contents of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and whereas it is



established that the decision under appeal regarding the disputed clauses as the issuing circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and as this circuit did not notice anything that warrants appeal or comment on it in light of the defenses raised before it, this circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in the appeal with respect to the result it reached on the clause in question, bearing in mind the reasons it gave for it.

Whereas, regarding the Authority's appeal on the clause (excluding dividends paid from the profit of 2020), paragraph (7) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated 07/07/1440 AH, stipulates the following: "The zakat base for the Taxpayer who keeps commercial books consists of all his assets subject to zakat collection, including the following: 7. The net profit of the zakat year adjusted for zakat collection purposes in accordance with the provisions of the regulation." Paragraph (1) of Article (6) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated 07/07/1440 AH also stipulates the following: "The Zakat base shall be calculated by adding the clauses listed in Article (4) of the Regulations, minus the clauses listed in Article (5) of the Regulations, in accordance with the following controls: 1- The Taxpayer's Zakat base must not be less than the net profit adjusted for the purposes of collecting Zakat in accordance with the provisions of the regulation."

Based on the above, and since the dispute lies in the fact that the Authority does not accept the reduction of the adjusted profit with the profit distributed from the year's profit for the year in dispute, as the Authority believes that Zakat should be imposed on the adjusted profit without reducing it by the dividend payment that exceeds the initial balance of the period for retained earnings, on the basis that the Zakat Collection Regulation issued in 1440 AH explicitly stipulates that the adjusted net profit is one of the funds subject to Zakat, as well as stipulating that the adjusted profit is the minimum threshold for Zakat it also stipulates that the adjusted net profit is one of the funds subject to Zakat, and that the adjusted profit is the minimum threshold for the Zakat base, while the Taxpayer asserts his right to deduct dividends from the adjusted net profit, on the basis that the legal rules stipulate that if the net profit is spent before the completion of the Hawl, there is no Zakat in it, and by looking at paragraph (1) of Article (6) of the Zakat Collection Regulation (6) of the Zakat Collection Regulation issued in 1440 A.H., it is clear that it stipulates that the Zakat base must not be less than the adjusted profit as a minimum when calculating the Zakat, and since the Taxpayer's request to deduct dividends from the adjusted net profit results in the adjusted profit not being subject to Zakat collection, which is contrary to what is stipulated in the Zakat Collection Regulation that subjected the entire adjusted net profit to Zakat the adjusted net profit of the year is subject to Zakat as a return of capital without regard to the turn of the year and before distribution from it, as the turn of the year is around its origin, which shows the correctness of the Authority's action by not reducing the adjusted profit by the profit distributed from the profit of the year, and this does not affect the Taxpayer's argument that the Appellate Circuit issued a decision No. IR -2022-1201 for the same company for the years 2011 to 2015,



which concluded to accept the company's appeal by deducting all dividends paid during the year without limiting them to any limits such as retained earnings, as well as reducing the net profit adjusted by the dividends made from the year's profit when determining the Zakat base, as the decision referred to relates to years that were not governed by a statutory text, while the year in question is governed by the Zakat Regulation 1440 A.H., which did not include reducing the adjusted profits with the distributed profit from the profit of the year, which means that the Authority's appeal should be accepted and the decision of the Dissolution Circuit should be canceled with regard to the clause (excluding the dividends paid from the profit of the year 2020).

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Accepting the appeal procedurally from the Taxpayer / Company ... (...), unique number (...) And the appeal submitted by the Zakat, Tax and Customs Authority against the decision of the third circuit for adjudicating violations and disputes of income tax in Riyadh with number (ISR-2022-1977) issued in case number (Z-83160-2021) related to the zakat assessment for the year 2020AD.

Secondly: On the Merits:

- 1- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (exclusion of dividends paid from the 2020 profit).
- 2- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (excluding asset financing from the general profit).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. Z-171043-2023

Case No. Z-171043-2023

Keywords:

Zakat - Adjustments to net profit - Adding a professional fee expense difference to accounting profit -
Accepting a Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the First Circuit to settle income tax violations and disputes in the city of Dammam No. (IZD-2022-2499) regarding the Zakat assessment for 2015, where the Taxpayer's appeal lies on the clause (unsupported salary expenses) where the Authority made an additional adjustment of (SAR 18,815,166) based on the social insurance certificate, and the Taxpayer explains that these differences are due to the method of calculating salaries that include additional allowances such as housing allowance and communication allowance in addition to the basic salaries. The Taxpayer asks the committee to accept these expenses as part of the Zakat deduction. The Authority added an amount of (SAR 9,583,471) as a difference in professional fees to the accounting profit, and the Taxpayer explains that there is a material error in the financial statements in Arabic, where the amount was incorrectly included. The correct amount is (SAR 10,879,731) based on the English-language financial statements. The Taxpayer supports his objection with a report from a chartered accountant that confirms the validity of the amount. The Appellate Committee found that the Taxpayer's objection regarding the unsupported salary expenses clause was accepted after submitting the required documents. The Taxpayer's correction was accepted after reviewing the financial statements. The implication is that the Taxpayer's objection is accepted

Document:

- Paragraph (8) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (1) of Article (5) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



- Paragraph (2) of Article (6) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) Article (20) of [the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. \(2082\) dated 01/06/1438H.](#)

Facts:



The appeal was heard on: 2023/01/23, from/... Identity number (...) In his capacity as the statutory representative, on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in the city of Dammam No. (IZD-2022-2499) issued in Case No. (Z-73921-2021) related to the 2015 Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

Rejecting the plaintiff's objection in all the clauses at issue.

This decision was not accepted by the Taxpayer (...), so he submitted a list of appeals, which was reviewed by the Circuit, where his appeal lies with regard to the clause (unsupported salary expenses). The Taxpayer explains that the Authority amended it by adding differences in the amount of (18,815,166) based on the salaries according to the attached insurance certificate. According to the company's statement, the basic salaries and housing allowance subject to social insurance are estimated at (71,457,891). The difference in the value of the basic salaries according to the company's records and according to the social insurance is due to the following: 1- The company's accounting policy in calculating basic salaries, as the basic salaries in the company's accounts include other allowances such as communication allowance and other allowances, and these allowances constitute differences estimated at four million and five hundred thousand in addition to the housing allowance, and the salaries recorded and subject to insurance are only basic salaries and housing allowance. 2- Employees by contract in the amount of two million and seven hundred thousand riyals, which is a cost related to employees who were contracted during the year in question, who are not registered in insurance or on the company's sponsorship, under contracts with companies or suppliers, a sample of which can be shared. Accordingly, the Company confirms that the above payroll expense reflected in the attached wage and salary analysis is an actual activity-related expense incurred by the Company during the above-mentioned year. It is also acceptable as an expense from an accounting and Zakat perspective, as stipulated in paragraph (1) of Article 5 of the Zakat Regulations for deductible expenses, in accordance with the provisions of paragraph (1) of Article 5 of the Zakat Regulations, in this regard, the company points out that salaries are an internal expense that is supported by internal disbursement authorizations and bank transfers according to the company's bank accounts and in accordance with the Wage Protection Law, and the company has submitted salary payment documents to the Authority, so what are the documents required by the Authority to prove this expense? In



addition, the salary expense is reviewed by the external auditor who approved the financial statements and reviewed the salaries as one of the business requirements, so the company is currently in the process of issuing a salary approval certificate from an external auditor and will attach it to the case file. The Taxpayer explains that according to the company's statement, a professional fees expense was charged during the year 2015AD in the amount of (1,296,260) riyals, as detailed in the attached professional fees analysis, which is consistent with the financial statements and the trial balance. The Taxpayer also indicates that he was unable to know or reach the amount added by the Authority, and upon reviewing the financial statements in Arabic and English, it was found that there is a material error in the lists in Arabic by listing the expense as (10. 879,731) riyals in error and the correct amount as attached to the lists is (1,296,260) riyals, he attached a copy of the explanation of the financial statements to verify the material error referred to and also attached the financial statements in English with the financial statements attached to the lawsuit for confirmation, and added that the company is currently working on issuing a statement from the external auditor to confirm the material error referred to, and the Taxpayer also attached the financial statements for the year 2016AD through which the value of the legal fees expense for 2015 is clear to support his point of view. With regard to the clause (adding dividends), the Taxpayer explains that according to the company's statement and based on the attached documents, the declared dividends in the amount of (81,000,000) are only the owner's withdrawals made during the year as shown in the attached bank statement, and at the end of the year and based on the attached board of directors meeting, a decision was made to approve the members of the company's board of directors to consider the partner's withdrawals as dividends in the amount of (81,000,000), this means that the amounts came out of the company's liability before the turn of the year, and it is not permissible to zakat it legally and legally, as it is an actual profit distribution and the award of the discount in accordance with the provisions of paragraph (8) of clause (1) of Article (4) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Resolution No. (2082) dated 01/06/1438 AH. The Taxpayer attaches the Taxpayer's bank statement for the year is attached, and the distributions are marked in yellow color to confirm that they have been discharged from the company's liability, and the company is currently preparing the documents related to the distributions from the bank statements related to these distributions, in addition to all the documents supporting these distributions. Accordingly, the Taxpayer requests that his appeal be accepted and that the decision of the Adjudication Circuit on the clauses under appeal be reversed.

On Wednesday, February 28, 2024, 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 conferencing 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: 21/4/1441 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 reviewing the case documents and the appeal list submitted by the Taxpayer, 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 formally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

As for the Taxpayer's appeal on the clause (unsupported salary expenses), the Taxpayer's appeal lies in the fact that the Authority amended it by adding differences in the amount of (18,815,166) riyals based on the salaries according to the insurance certificate, and based on paragraph (1) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution (2082) dated 1/6/1438 AH, which states that: "All ordinary and necessary expenses required for the activity shall be deducted whether they are paid or accrued, leading to the net result of the activity, provided that the following controls are met: A- It must be an actual expense supported by documentary evidence or other indications that enable the authority to verify its validity, even if related to previous years. B- It must be related to the activity and not related to personal expenses or other activities. C- It should not be of a capital nature, and in the case of including an expense of a capital nature within the expenses, the result of the activity is adjusted and the fixed assets are included and consumed according to the statutory rates. Based on Article 6(2), paragraph (2) thereof, regarding the expenses that may not be deducted, which stipulates that "Expenses for which the Taxpayer is unable to substantiate the expenditure with supporting documents or other evidence." article 20(3) of the Constitution states that: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." according to the above, the General Organization for Social Insurance certificate is one of the important evidence issued by a third party and is used to verify the fairness of salaries, wages and the like charged to the accounts, and by reviewing the case file, it appears that the Authority adjusted the Taxpayer's business results after comparing the salaries in the financial statements with the salaries shown in the social insurance certificate, and with reference to the documents attached to the case file where the Taxpayer attached a certificate from the legal accountant represented by an analytical statement for the year 2015AD, which shows that the salaries shown in the financial statements for 2015 correspond to the social insurance certificate, and



With regard to the Taxpayer's appeal on the clause "Adding a professional fee expense difference to the accounting profit", and where the Taxpayer's appeal lies in the fact that the Authority added a professional fee expense difference of (9,583,471) SAR to the accounting profit, and based on paragraph (1) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution (2082) dated 1/6/1438 AH, which stipulates: "All ordinary and necessary expenses required for the activity shall be deducted whether they are paid or accrued, leading to the net result of the activity, provided that the following controls are met: A- It must be an actual expense supported by documentary evidence or other indications that enable the authority to verify its validity, even if related to previous years. B- It must be related to the activity and not related to personal expenses or other activities. In the event that an expense of a capital nature is included in the expenses, the result of the activity shall be adjusted and the fixed assets shall be included and amortized in accordance with the statutory rates." upon reviewing the case file, it is clear that the dispute is limited to the Authority's action to add a difference of SAR 9,583,471 in professional fees to the accounting profit due to the fact that the professional fees expense as per the financial statements amounted to SAR 10,879,731 and the professional fees expense recognized by the Taxpayer amounted to SAR 1,296,260, with reference to the attached documents, the Taxpayer attached a letter of amendment from the Chartered Accountant dated 2/7/1444 AH corresponding to 24/1/2023 AD, in which he agrees with the Taxpayer that there is a typographical error regarding the expenses of legal and professional fees in Note No. (18) in the Arabic version of the Taxpayer's financial statements for 2015, as the correct amount for legal and professional fees is (1,296,260 SAR and not (10,879,731) SAR, noting that the amount is correctly shown in the English version of the Taxpayer's financial statements for the year 2015AD. Accordingly, there is no difference for professional fees expense and the amount of professional fees expense is deducted as previously explained, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit on this clause.

With regard to the Taxpayer's appeal on the clause (adding dividends), and where the Taxpayer's appeal lies in the issuance of a decision to approve the members of the company's board of directors to consider the partner's withdrawals as dividends as the amounts left the company's liability before the turn of the year, and based on paragraph (8) of clause (I) of Article (4) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, which stipulates the following: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8- The balance of carried forward profits from previous years at the end of the year." based on the above, and upon reviewing the case file and the defenses and documents it contains, it is clear that the Taxpayer attached the partners' decision to the dividends of SAR 81,000,000 and the bank statements proving that the funds left the Taxpayer's estate before the turn of the lunar calendar. According to the basic Shari'ah rule, zakat is only due on funds that meet the condition of full ownership, therefore, given the Taxpayer's submission of documents supporting his viewpoint, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit on this clause.



With regard to the Taxpayer's appeal regarding the clause "Sales and Promotion Commission Differences", wherein the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them, if it assesses that these reasons do not contain anything new, because in supporting the decision with what these reasons contain, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and wherein it is established that the decision under appeal regarding the disputed clauses was consistent with the valid reasons on which it was based and sufficient to carry its judgment as the issuing circuit scrutinized the dispute and reached the conclusion it reached in the operative part of the decision, and as this circuit did not notice anything that warrants appeal or comment in light of the defenses raised before it, this circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the outcome of the sales and promotion commission differentials clause, in accordance with its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally, from the applicant/ ... Commercial Register No. (...), Unique number (...), against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam city. (IZD-2022-2499) issued in Case No. (Z-73921-2021) related to the Zakat assessment for 2015.

Secondly: On the Merits:

- 1- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (unsupported salary expenses).
- 2- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (differences in sales and promotion commissions).
- 3- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause "Adding a professional fee expense difference to the accounting profit".
- 4- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (adding dividends).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-187839

Case No. Z -171218-2023

Keywords:

Zakat - Adjustments to Net Profit non-deductibility of government advertisements accepting the Authority's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority objected to the decision of the Third Circuit to adjudicate income tax violations and disputes in Riyadh (IFR-2022-6702). The Taxpayer's appeal lies on the clause (not deducting government subsidies due at the end of the year from the net profit) as the subsidies are included in the zakat base, and the Taxpayer's appeal lies on the clause (adding loan balances to the zakat base) as the loans obtained by the company are short-term loans that were intended to contribute to financing the main activity of the company, so the entire amount has not yet been converted to zakat. The Appellate Committee found that the Taxpayer was claiming a different deduction than what should actually be deducted, and the claim was not for the deduction in the adjusted profit or Zakat base, but for the accrued income charged to the income statement or its balance shown in the financial statement. Consequently, the Authority's appeal is accepted, and the Taxpayer's appeal is partially accepted.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (5) of Article (4) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 16/03/2023by (.....), National ID No. (.....), as an agent of the appellant company under agency No. (.....),and the appeal filed on 05/04/2023by (.....), and the appeal filed on 05/04/2023 from the Zakat, Tax and Customs Authority (ZTCA) against the decision of the Third Circuit for Adjudicating Income



Tax Violations and Disputes in Riyadh(IFR-2022-6702)issued in Case No. (Z-47421-2021) related to the 2015 Zakat assessment, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: The Taxpayer's Taxpayer's claim against the ZTCA:

First: acceptance of the plaintiff's objection/ (.....) , Commercial Register No. (...) On the decision of the Defendant/Zakat, Tax and Customs Authority procedurally.

Secondly: On the merits:

1- Amending the defendant's decision regarding the clause (not deducting the government subsidies due at the end of the year from the net profit for the years 2015 and 2016).

2- Reject all other objections.

This decision was not accepted by both parties both parties filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, the Taxpayer's appeal relates to the clause (Adding loan balances to the Zakat base for the year 2015AD), the Taxpayer requests the annulment of the Adjudication Circuit's decision regarding this clause. He pointed out that the disputed loans, according to the Authority's statement, are long-term loans of a revolving and revolving nature, which are repaid by creating a new loan of the same value for the same period, which shows that these loans are in essence revolving and continuous loans, and according to the explanation of loans in the financial statements of the Agricultural Development Fund loans, they are for the purpose of completing the poultry farm project and for the purpose of completing the poultry processing plant completion of the poultry farm project and for the purpose of completing the poultry processing plant, which means that the purpose of the loans is to finance assets. As for 2017 and 2018AD, the Taxpayer does not agree with the Authority's procedure in applying the provisions of paragraph (3/b) of Article (4) of Ministerial Decision No. (2216) dated 7/7/1440 AH, as Ministerial Decision No. (2216) issued in 1440 AH included in paragraph (3/b) of Article (4), considering that the replacement of loans with others does not lead to the interruption of Hawl, while the Authority uses this paragraph the paragraph retroactively to the years in dispute without taking into account that the controls of Ministerial Decision No. (2082) of 1438 AH, which stipulates that the loan is subject to the financing of long-term assets or the turning of the year, which the Taxpayer objects to its application in the assessment if this treatment is correct, the application of other articles of the same decision may be in the Taxpayer's favor, and since the Taxpayer's loan is not subject to the provisions of the Tax Authority's Decree No. 1438H of 1438H is incorrect and misplaced, as the said regulation applies to the years 2019 and beyond, while the Executive Regulation issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, included the Authority's procedures followed in processing the loans which did not include adding loans to the Zakat base as revolving loans, and that the application of the Executive Regulation



issued by Ministerial Decision No. (2216) dated 7/7/1440 AH is only for fiscal years starting on and after 01/01/2019. As for the years 2015 and 2016, the Taxpayer relied on Fatwa No. (22665) dated 15/04/1424 AH regarding the subjection of credit balances and loans, which specified the conditions that must be met to subject loans to Zakat, and indicated that the basis for adding loans to the Zakat base in accordance with the above-mentioned executive regulation is that these loans have become due or have been used to finance long-term assets that are deducted from the Zakat base, and therefore the amounts that the Authority has added to the base do not meet the mentioned criteria for subjection to Zakat therefore, the amounts that the Authority added to the Zakat base do not apply to the mentioned criteria for Zakat, as the loans obtained by the company were for the purpose of contributing to the financing of the company's main activity, and the part that has already passed, the company voluntarily added it to the Zakat base in its Zakat declarations the company also has short-term loans that were repaid no later than six months and the said financing was used for the company's main activity of financing operations (according to the note to the financial statements above) and that these loans were not originally financed with a discounted asset, therefore, the Taxpayer believes that the Authority's procedure is incorrect in its assumption that the short-term loans are of a revolving nature and have not been interrupted for a year as short-term loans are obtained under contracts signed with the lending bank, each contract has a separate reference number and the contract clarifies the amount and duration of the loan as well as the purpose of obtaining the loan, and at the end of the loan term, the loan is actually repaid and not a book payment, and the Taxpayer added that it is understood that the term "revolving/revolving loans the Taxpayer added that the term revolving/revolving loans applies only to those loans obtained by the Taxpayer and the repayment of these loans is a book repayment and not an actual repayment, which means that the loans are still in the possession of the company and from this point of view they should be subject to Zakat as the Zakat year is not interrupted, but on the contrary, the Authority has been provided with an analysis of bank loans which in turn confirms the actual repayment of these loans, which means that the challenged loans represent short-term loans, and those loans (or other sources of financing) that were used to finance the company's assets in the year under examination and the company added them to the base in its Zakat declarations, and we note that the company did indeed add (415, 206,845) riyals in the Zakat return for the year 2015AD at the time of filing the objection in the electronic portal of the Authority (Revenue), and it does not mind adding the amounts (192,609,351) riyals and (29,746,155) riyals for the years 2016 and 2017 respectively to the Zakat return, which were proven to be financing fixed assets, if the Authority's action to add the loans to the Zakat return is canceled from its point of view.

The decision was not accepted by the Zakat, Tax and Customs Authority, which filed its appeal against the challenged decision by means of an appeal regulation that included the following summary:

With regard to Authority's appeal against the decision of the Adjudication Circuit, Authority explains that it deducted the outstanding balance of government subsidies for the years 2015 and 2016 only from the



Zakat base, and rejected the Taxpayer's objection to deduct the outstanding subsidies from the net profit and not from the Zakat base, as subsidies are among the clauses in the Zakat base, and the Circuit issuing the decision under appeal amended the Authority's decision the Authority answers that after reviewing the Committee's decision and the Taxpayer's objection memorandum, and where the decision concluded that the year of the dispute is 2015 and 2016 was before the issuance of the Zakat regulation issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH, and therefore Taxpayers were not required to calculate Zakat based on the Zakat base or adjusted net profit, whichever is greater, the Authority answers that Ministerial Resolution No. (2082) dated 01/06/1438 AH stipulated in clause II: "The rules and procedures contained in the attached regulation shall replace all previous decisions, instructions and circulars related to the collection of zakat." This confirms the Authority's right to apply the regulation to all years prior to its issuance, with its zakat treatments that ensure the realization of the legal aspect in the calculation of zakat. As for the government subsidy, according to the accounting standard on government subsidies and grants, it is a monetary asset or a reduction of liabilities from a government entity in exchange for the company's commitment to implement limited government policies and programs, and the subsidy, according to the standard, is considered short-term operations or transfers to finance activities related to the company's ongoing operations or to finance the entity's needs in unusual and exceptional circumstances, and because granting the subsidy affects income, so any information about it will be reflected in the financial statements, and the Authority explains that if the accrued subsidy is included in the income statement with Revenues, in this case it must be deducted and excluded.

On Sunday, 04/02/2024, 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 conferencing 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:21/4/1441 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 reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, 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 means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.



On the subject of the Authority's appeal regarding the clause (not deducting the government subsidies due at the end of the year from the net profit for 2015), the authority clarifies that it only deducted the outstanding balance of government subsidies for 2015 from the Zakat base, and the Taxpayer's objection to deducting the outstanding subsidies from the net profit and not from the Zakat base was rejected, as subsidies are among the clauses in the Zakat base. Based on Fatwa No. (23408) dated 18/11/1426 AH issued by the Permanent Committee for Scientific Research and Ifta regarding debts due from government entities, which stated the following: "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran:" (So fear Allah as much as you are able), and because Zakat is a form of support, it is not due on a person who cannot collect it and has nothing of it in his hand," as stated in paragraph (6) of clause (first) of Article (four) of the executive regulation for collecting Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, stating: First: The Zakat base consists of all the Taxpayer's assets subject to Zakat, including: 6- government and non-government grants upon receipt," and based on the above, and upon the circuit's consideration of the dispute, the Taxpayer fundamentally objects to not deducting unreceived government grants from the adjusted net profit according to the burden on the income statement as they are not due, and not as stated in the decision under appeal, while the authority demands the annulment of the decision of the circuit, as the correct treatment of the clause is to deduct the due grants from the Zakat base account in the assessment and not from net profit, and upon reviewing the case file and the documents it contains, it is clear that the basis of the dispute lies in the Taxpayer's demand to deduct the due grants charged to the income statement from the adjusted net profit, and since the principle in Zakat is to calculate the accounting profit and adjust it by adding non-deductible expenses legally, and then calculating the Zakat base which includes what is on the Taxpayer and what is owed to him, and the unreceived government grants should be adjusted in the Zakat base, as they are considered elements of the balance sheet, as the Taxpayer argued that the appellate decision issued against the company for the years 2003 and 2004 included the approval of deducting these Revenues from the adjusted net profit, and upon returning to the mentioned decision, it became clear to this circuit that the clause was losses carried forward and thus affected by these due Revenues, and as for the clause of due government grants, the decision indicated that the correct treatment is to deduct the due grant from the Zakat base account in the assessment and not from net profit, as the adjusted net profit heavily relies on the accounting net profit and the related Revenues and expenses to reach it, and then it is adjusted from a Zakat perspective to include non-deductible expenses Zakat-wise such as those not documented and not related to the activity, in addition to the fact that the decision of the circuit was flawed, as the Taxpayer demands to deduct amounts different from what should actually be deducted, and the claim was not about the deduction in adjusted profit or the Zakat base, but rather on the due Revenues charged to the income statement or their balance shown in the financial position, which leads the circuit to accept



the authority's appeal and annul the decision of the circuit regarding the clause (not deducting due government grants at the end of the year from net profit for the year 2015AD).

Whereas, regarding the Taxpayer's appeal regarding the clause (adding loan balances to the Zakat base for 2015), the Taxpayer demands that the decision of the Adjudication Circuit regarding this clause be annulled, and the Taxpayer relied on Fatwa No. (22665) dated 15/04/1424 AH regarding the subjection of credit balances and loans, which specified the conditions that must be fulfilled in order to subject loans to Zakat, and pointed out that the basis for adding loans to the Zakat base according to the aforementioned executive regulation is that these loans must have reached the end of the year or were used to finance long-term assets discounted from the Zakat base he pointed out that the basis for adding loans to the Zakat base according to the aforementioned executive regulations is that these loans have already passed the hawl or have been used to finance long-term assets that are deducted from the Zakat base, and therefore the amounts that the Authority added to the base do not apply to the mentioned criteria for subjecting the company to Sharia Zakat, as the loans obtained by the company were for the purpose of contributing to the financing of the main activity of the company. Where paragraph (5) of clause (First) of Article (Fourth) of the executive regulation for collecting Zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, stated that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What has been used in trade offers and has completed the year", as clarified by the fatwa issued by the Permanent Committee for Scientific Research and Ifat No. (22665) dated 15/4/1424 AH that: "What the company takes from money as a loan from investment funds or others does not escape one of the following cases: A/ That the year passes on all or part of it before spending it, so what has passed on it the year is due Zakat. 2/ That all or part of it is used to finance fixed assets, so there is no Zakat on what has been used for that. 3/ That it is used to finance the ongoing activity of the company, which is considered among trade offers, so Zakat is due on it based on what has been acquired and is Zaka table by evaluating it at the end of the year", and based on the above, loans are considered one of the components of the Zakat base regardless of their type, source, or classification, provided that the year has passed on them or they are used to finance the assets deducted from the Zakat base without the condition of the year passing on them, and upon reviewing the circuit on the case file, it is clear that the Taxpayer argues that revolving and renewed loans were issued after the years of objection above and that applying them is not appropriate, and upon reviewing the Zakat regulations and fatwas above before the issuance of the new regulation, it became clear that the 1440 AH regulation was complementary and did not challenge the previous procedures and articles but was complementary, and upon reviewing the documents attached to the case file, it became clear to them through it that the movement matched the financial statements and it was not clear that the short-term loans were revolving or renewed, as comparing the loan repayment dates with the dates of receipt of the amounts did not clarify



that, and upon reviewing the detailed movement, it is clear that what has passed on it the year was an amount of (93,825,000) riyals, and as for the Agricultural Development Fund loans according to the clarification of loans in the financial statements, it became clear that they were for the purpose of completing the poultry farm project and for the purpose of completing the factory ..., which means that its main purpose was to finance assets and that what has passed on it the year was an amount of (196,500,000) riyals, and there is no addition even though the additions during the year financed assets and should be added to the base if they exist, which leads the Circuit to accept the Taxpayer's appeal partially and amend the decision of the circuit regarding the clause (adding loan balances to the Zakat base for the year 2015AD).

Whereas, regarding the Taxpayer's appeal regarding all matters related to the years 2016, 2017 and 2018AD, and upon reviewing the three decisions referred to in its appeal list, it was found that the Taxpayer registered a case for each of the years, and the Circuit issued four decisions in four cases for all years, resulting in four duplicate decisions, which is contrary to the nature of the judicial process and violates the principle of res judicata, in addition to the fact that the decisions in this form make it impossible to study each case properly, as the plaintiff has submitted defenses and documents for each year in a separate case it is impossible to study each case properly, as the plaintiff submitted defenses and documents for each year in a separate case, and merging the cases in this manner results in the loss of defenses and documents in separate case files, in addition to the repetition of four identical decisions, and where the plaintiff is objecting in this case to the year 2015AD, which requires the Circuit to cancel the decision of the Adjudication Circuit in all matters related to the years 2016, 2017AD and 2018AD.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/company ..., commercial registration (...), Unique number (...), and the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the third circuit regarding violations and disputes of income tax in Riyadh number (IFR-2022-6702) issued in case number (Z-47421-2021) related to the Zakat assessment for the year 2015AD.

Secondly: On the Merits:

- 1 - Acceptance of the authority's appeal and cancellation of the decision of the circuit regarding the clause (not deducting the government subsidies due at the end of the year from the net profit for the year 2015AD).
- 2 - Acceptance of the Taxpayer's appeal partially and amending the decision of the circuit regarding the clause (adding loan balances to the Zakat base for the year 2015AD).
- 3- Cancellation of the decision of the circuit in all matters related to the years 2016, 2017AD, and 2018.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-178632

Case No. Z -2023-178632

Keywords:

Zakat – Adjustment to net profit – investment Revenues – acceptance of the authority's appeal

Summary:

The objection of the Zakat, Tax and Customs Authority to the decision of the First Circuit regarding violations and disputes of income tax in Dammam City No. (IZD-2022-2761), where its appeal on the clause (investment Revenues for the years 2013 to 2015) lies in that the profits were distributed from the retained earnings of the invested company and not from the profit of the year, and based on that, the amounts for the years in dispute were refunded. And since it was established to the appellate committee by reviewing the statement of changes in the partners' equity of the invested company submitted by the authority within its appeal statement that the profits were distributed from the retained earnings, it follows that they were not subject to Zakat in the taxable base of the invested company, as it is known that if the distributed profits are from the profits of previous years of the invested company, they are deducted from the retained earnings that are added to the taxable base in the invested company, thus they were not subject to Zakat and should be Zakat within the taxable base of the invested company. Consequently, the authority's appeal is accepted, and the decision of the adjudication committee is canceled.

Document:

- Paragraph (1) of Article (15) of [Rules of Procedure for the Committees for the Resolution of Tax Violations and Disputes, issued by Royal Decree No. \(26040\) dated 04/21/1441 A.H](#)

Facts:

The appeal filed on 2023/02/16 AD by the Zakat, Tax and Customs Authority (ZTCA) against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam City No. (IZD-2022-2761) issued in Case No. (Z -81572-2021) regarding the Zakat assessment for the years 2013 to 2015 in the case filed by the Defendant against the Zakat, Tax and Customs Authority, in which the decision of the



Adjudication Circuit ruled as follows: "The appeal was filed on 2023/02/16AD by the Zakat, Tax and Customs Authority:

Annulment of the Defendant's decision with respect to investment income for the years 2013 to 2015.

As this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it submitted a list of appeals, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (investment income for the years 2013 to 2015). The Authority explains that it did not accept the income from investments in affiliated companies for the disputed years, as the reason for not accepting them was that the profits were distributed from the retained earnings account of the invested company and not from the profit of the year, and accordingly, the amounts for the disputed years were refunded as indicated for each year, in 2013: (9,627,500) SAR, in 2014 (10,600,025) SAR, and in 2015 (18,114,536) SAR. Upon examining the objection, the Taxpayer explained the reasons for his objection in the Taxpayer's viewpoint above, and after reviewing, studying and referring to the Authority's assessment it was found that the reason was that these profits were not distributed from the profit of the year in order to be deducted from the net profit to avoid being commended, but rather the distribution was made from the balance of the retained profits for the first period of the invested companies, the financial statements of the invested companies were reviewed and ascertained the balance of retained profits and the amount of distributions the financial statements of the investee companies were reviewed to verify the balance of retained earnings and the amount of distributions and it was found that the distributions that were distributed were not from the year's profit because there is a higher balance of first profits for all years than the amounts distributed and this clearly shows that the distribution was made from retained earnings and not from the year's profit, as is clear in the list of changes in partners' equity for 2013 and 2014 for the distribution and for the first period balances of retained earnings, and this applies to the rest of the years. In light of the above, the Taxpayer's objection was rejected due to the lack of zakat discouragement to accept the deduction of the distributed profit, as it is from the balance of retained profits carried forward from previous years, and since these amounts are no longer available in the investee company, they should be recognized as investment income, and the Authority confirms the correctness and soundness of its procedure, and requests the acceptance of its appeal and reversal of the decision of the Adjudication Circuit.

On Monday, April 15, 2024, 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 (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 8/4/1445 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 reviewing the case documents and the appeal list submitted by the Zakat, Tax and Customs Authority, 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 means that the appeal request is accepted procedurally, as it was submitted by a person with standing, and within the statutory period prescribed for its conduct.

On the merits, and with regard to the Authority's appeal on the clause (investment income for the years 2013 to 2015), and where the Authority's appeal lies in the fact that the profits were distributed from the retained profits account of the investee company and not from the profit of the year, and accordingly, the amounts for the years in dispute were refunded, and based on the above, and upon reference to the file of the case, the Circuit found that the view of the Authority is that the profits distributed to the company were from the retained profits of the investee company and therefore they were not subject to Zakat in its hands, and accordingly and by reviewing the change in partners' rights of the investee company provided by the Authority in its appeal list, it turns out that the profits were distributed from the retained profits of the investee company and therefore they were not subject to Zakat it turns out that the dividends were distributed from the retained earnings, and therefore they were not subject to Zakat in the investee company, as it is known that if the dividends distributed are from the previous years' profits of the investee company, they are deducted from the rounded profits that are added to the Zakat base in the investee company in addition, the appellant (the Authority) attached a declaration form (the investee company), which clearly shows that it has excluded these profits from its zakat base, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit on this clause.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the appellant, the Zakat, Tax and Customs Authority, against the decision of the third division regarding violations and disputes of income tax in Riyadh with number (IZD-2022-2761) issued in case number (Z- 82195-2021) related to the zakat assessment for the years 2013AD to 2015AD.

Secondly: On the merits:

Acceptance of the authority's appeal and cancellation of the decision of the adjudicating circuit regarding the clause (investment Revenues for the years 2013 to 2015).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
Riyadh

Decision No. IR-2024-171196

Case No. Z-2023-171196

Keywords:

Zakat – Adjustment to net profit – realized losses from investments – acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the First Circuit regarding violations and disputes of income tax in Dammam City No. (IZD-2022-2583) where his appeal on the clause (international investments) claims that they are investments for the purpose of acquisition and are considered deductible clauses from the taxable base, and the clause (realized losses from investments) where he claims that the authority accepts profits from investments that are not approved for deduction within the company's profits and that not approving the realized losses is a serious error in the concept of Zakat. And since it was established to the appellate committee that the custom has settled on adding gains / deducting realized losses from investments in securities within the equity rights of the taxable base of Zakat. And this does not detract from the authority's argument that the Taxpayer is not entitled to deduct these losses regardless of whether the deduction of investments is accepted or not, and since the accounting treatment of the disputed loss results in a reduction of the taxable base by the value of that loss, and a decrease in the amount deducted for the investment by the same amount as is the case in dealing with gains from financial investments prepared for trading or the losses incurred regarding them that are realized. This means; accepting the Taxpayer's appeal and canceling the decision of the adjudicating circuit.

Document:

- Paragraph (4) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (1) of Article (5) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



the appeal was heard on: 2023/01/25, from/... National ID number (...) As an agent for the appellant company under agency No. (...), on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam city no.(IZD-2022-2583) issued in Case No. (Z-81113-2021) related to the 2017 Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

Dismissed the plaintiff's objection in all clauses at issue in 2017AD.

This decision was not acceptable to the Taxpayer (Company ...), so he filed an appeal list, which was reviewed by the Circuit, where the Taxpayer's appeal lies on the clause (Realized losses from investments), the Taxpayer explained that the Authority rejected the clause on the grounds that these realized losses resulted from ... Company the decision of the adjudication committee rejected this clause because no document was submitted stating that the investments are for the purpose of Acquisition and that the reasons for rejection, according to the reasons for the decision, do not correspond to the nature of the clause, and the reasons for the decision of the adjudication committee were based on Article 4.2 paragraph (1/4), which is the article on the approval of investment discounts, and there is confusion among the adjudication committee about the nature of the clause as the dispute is not for the approval of the foreign investment discount, but for the approval of realized losses from that investment it is worth mentioning that this has been confirmed by the Authority that the clause is realized losses, and what was stated in the reasons of the adjudication committee in rejecting the clause that the company did not submit the financial statements is a flawed basis, so how did the committee ensure the validity of the Authority's view, especially since all clauses in the dispute are clauses within the financial statements that the committee stated that it did not see, and that not adopting these realized losses is a mistake there is no relationship between the adoption of realized losses and the extent to which the investment related to those realized losses is approved or not, which is surprising that the Authority accepts the profits of investments that are not approved for deduction as part of the company's profits and that not recognizing realized losses is a serious error in the concept of zakat, as the Taxpayer's base is a single unit that should not include realized profits from foreign investments the Authority and the adjudication committee have violated all zakat concepts, as the decisions of the Appellate Committees have supported the deduction of unrealized losses, which are related to unrealized investments, let alone realized losses, and that the appeals decisions that supported unrealized losses for investments that are not approved for deduction, including, but not limited to, Decision No. IR-2020-29, issued in Restricted Appeal No. Z -2018- 1681, where it stated "Accepting the Taxpayer's appeal in his request to exclude the amounts (clause of unrealized loss pool for .. From his Zakat base and overturn the initial decision in that regard for the reasons and grounds stated in this decision."

Regarding the Taxpayer's appeal regarding the clause (International Investments), the Taxpayer explained that all foreign investments are investments for the purpose of Acquisition, to which the provisions of Article



4(4)(b) of Zakat Executive Regulation No. (2082) dated 1/6/1438 AH apply, which states: "Investments in establishments outside the Kingdom - in partnership with others - shall be included in the Taxpayer's Zakat return provided that the Taxpayer calculates in his Zakat declaration the Zakat due for these investments in accordance with the rules stipulated in this regulation and submits it to the Authority, attaching audited accounts from a certified public accountant in the country of investment and approved by the official authorities, if he does not comply with the calculation and submission of Zakat accordingly, it shall not be deducted from the Zakat base." in compliance with the provisions of the article, the company submitted the financial statements of the foreign companies as well as a certificate from a chartered accountant to calculate Zakat for these companies, but the committee, as previously presented, did not adequately review the case and the documents attached to it and took the memorandum of the Authority as the basis for its decision, and the adjudication committee followed what was stated in the memorandum of the Authority based on Ministerial Resolution No. (1005) dated 28/5/1428 AH. As explained above, and assuming that the Authority's reliance and the adoption by the adjudication committee is correct by adopting Ministerial Resolution (1005), it is clear that the committee did not review the documents submitted, represented by the financial statements and the certificate of the chartered accountant it is clear that the committee did not review the documents submitted, namely the financial statements and the certificate of the legal accountant, noting that Ministerial Resolution (1005) was superseded by the issuance of Zakat Regulation (2082) dated 1/6/1438 AH, and foreign investments are among the clauses that must be deducted in accordance with the provisions of Article 4(4)(b) of Zakat Executive Regulation No. (2082) dated 1/6/1438 AH and in accordance with the appeals decisions issued in the same regard, the Taxpayer requests that his appeal be accepted and the decision of the Adjudication Circuit regarding the clauses subject to his appeal be reversed.

On Thursday, March 14, 2024, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause No. (2) of Article Fifteen of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/4/1441 AH after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, 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 formally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.



The Taxpayer's appeal relates to the clause "Realized Losses from Investments". The Taxpayer's appeal is to appeal the Circuit's rejection of his objection regarding the disputed clause, as he claims that the Authority accepts the profits of investments that are not discounted as part of the company's profits and that not recognizing the realized losses is a grave error in the concept of zakat. And based on paragraph (1) of Article (5) of the executive regulation for the collection of Zakat issued by the ministerial decision No. (2082) dated 1/6/1438 AH regarding the expenses that may be deducted which states that: "All ordinary and necessary expenses required for the activity shall be deducted whether they are paid or accrued, leading to the net result of the activity, provided that the following controls are met: A- It must be an actual expense supported by documentary evidence or other indications that enable the authority to verify its validity, even if related to previous years. B- It must be related to the activity and not related to personal expenses or other activities. C- It should not be of a capital nature, and in the case of including an expense of a capital nature within the expenses, the result of the activity is adjusted and the fixed assets are included and consumed according to the statutory rates. Based on the above, and since the Taxpayer's appeal lies in the custom that has settled on adding gains / deducting realized losses from investments in securities within the equity rights of the taxable base of Zakat. And this does not detract from the authority's argument that the Taxpayer is not entitled to deduct these losses regardless of whether the deduction of investments is accepted or not, and since the accounting treatment of the disputed loss results in a reduction of the taxable base by the value of that loss, and a decrease in the amount deducted for the investment by the same amount as is the case in dealing with gains from financial investments prepared for trading or the losses incurred regarding them that are realized, which leads the circuit to accept the Taxpayer's appeal and cancel the decision of the adjudicating circuit regarding this clause.

With regard to the Taxpayer's appeal regarding the "International Investments" clause, the Taxpayer's appeal is to appeal the rejection by the Adjudication Circuit of his objection regarding the disputed clause, as he claims that it is an investment for the purpose of qanun Iya, which is considered an clause that must be deducted from the base. Based on paragraph number (4) of clause (Second) of article four of the executive regulation for collecting zakat issued by ministerial decision number (2082) dated 1/6/1438 AH on: "The following shall be deducted from the zakat base:" Investments in establishments outside the Kingdom - in partnership with others - provided that the Taxpayer includes in their zakat declaration the zakat due on these investments according to the rules stipulated in these regulations and submits them to the authority, along with audit accounts from a certified accountant in the country of investment, approved by the official authorities; if they do not comply with calculating and submitting the zakat accordingly, it will not be deducted from the zakat base. Based on the above, the Taxpayer is entitled to deduct the foreign investment from his Zakat base, provided that he commits to calculating Zakat and supplying it to the Authority, submitting audited financial statements from a certified public accountant in the country of investment, providing proof of payment of Zakat, and then deducting these investments from the invested company's base, and with reference to the attached case documents, it appears that the Taxpayer submitted



a certificate from a certified public accountant in the Kingdom of Saudi Arabia indicating the correctness of calculating Zakat and submitted financial statements of the invested companies, which concludes the Circuit to accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit regarding this clause.

With regard to the Taxpayer's appeal regarding the remaining clauses at issue in the case, the Circuit is not faulted for adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the content of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the remaining clauses at issue in the case, bearing in mind its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company ..., commercial register (...), Unique number (...) Against the decision of the first circuit to rule on violations and disputes regarding income tax in Dammam City with the number (IZD-2022-2583) issued in case number (Z-81113-2021) related to the zakat assessment for the year 2017AD.

Second: On the Merits:

- 1- Accepting the Taxpayer's appeal and canceling the decision of the ruling circuit regarding clause (realized losses from investments).
- 2- Rejecting the Taxpayer's appeal and upholding the decision of the ruling circuit regarding clause (equity method investment difference).
- 3- Rejecting the Taxpayer's appeal and upholding the decision of the ruling circuit regarding clause (foreign investments available for sale).
- 4- Accepting the Taxpayer's appeal and canceling the decision of the ruling circuit regarding clause (international investments).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-192583

Case No. Z-2023-192583

Keywords:

Zakat - Adjustments to Net Profit - Unrealized Gains from Revaluation of Investments - Acceptance of the Authority's Appeal - Denial Taxpayer's Appeal

Summary:

The objection of the Zakat, Tax, and Customs Authority to the decision of the third circuit regarding violations and disputes of income tax in Riyadh numbered (ITR-2024-1). The Taxpayer's appeal lies on the clause (Provision for severance pay for the year 2018), claiming that the balances transferred from sister companies during the year should not be added to the current balance, and the Authority's appeal lies on the clause (Gains (losses) on investment in subsidiaries for the year 2018) and the clause (Unrealized gains on revaluation of investments in the amount of) (Unrealized Gains on Revaluation of Investments) to cancel the Circuit's decision on this clause on the grounds that it treated the balance of unrealized gains with the balance of investments removed from the Zakat base for the years under dispute and added the same balance to the Zakat base forth years under dispute, and therefore there is no impact. The Appellate Committee found that the Authority considered the true values of the unrealized gains in accordance with the approved Zakat standards. Consequently, the authority's appeal is accepted, and the Taxpayer's appeal is accepted.

Document:

- Paragraph (4/a) of Article (4/2) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

the appeal filed on 20/04/2023, from /... National ID No. (...), as the statutory representative of the appellant company, the appeal filed on 26/04/2023 from the Zakat, Tax and Customs Authority, against the decision of the Third Circuit for the Adjudication of Income Tax Violations and Disputes in Riyadh, No.(ITR-2024-



1) issued in Case No. (Z-44839-2021) related to the Zakat assessment for the years 2014, 2015 and 2018AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: The Taxpayer is entitled to the following:

First: accepting the objection of the Defendant/company ... Holding (Commercial Registration No. ...) Procedurally.

Secondly: On the merits:

1- Annul the Defendant's decision regarding the 2014 statute of limitations.

2- Regarding the clause (Remuneration of the Board of Directors):

A- overturning the Defendant's (2014) decision.

B- Plaintiff's objection rejected (2015).

3- Regarding the clause (salaries and wages):

A- overturning the Defendant's (2014) decision.

B- Plaintiff's objection was rejected for 2015 and 2018.

(4) Annulment of the Defendant's decision with respect to the clause (Profits (Losses) on Investment in Subsidiaries).

5- Regarding the clause "Special Zakat Donations":

A- Demonstrate the end of the dispute in relation to the clause "Donations (3,850,000)".

B- Rescind the Defendant's decision with respect to (250,000) donations.

T- Plaintiff's objection is dismissed with respect to (2,073,250).

6- Annulment of the Defendant's decision with respect to the clause (underinvestment in subsidiaries).

7- Rejecting the plaintiff's objection regarding the capital increase clause.

8- Cancel the defendant's decision with regard to the "Additional Capital" clause.

9. Reversal of the Defendant's decision with respect to the clause "Unrealized Gains on Revaluation of Investments".

10. Annulment of the Defendant's decision with respect to the clause "Investments in subsidiaries".

11- Canceling the defendant's decision regarding the clause (amounts due from related parties).

12- Regarding the severance pay provision:

A- overturning the Defendant's decision (2014).



B- Plaintiff's objection rejected (2015).

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following: with regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, the Taxpayer's appeal lies with regard to the clause (Material Errors in the Decision). The Taxpayer demands the annulment of the Circuit's decision on this clause, on the grounds that the decision under appeal was issued flawed and contained material and substantive errors and differences between the operative part of the decision and its reasons, and therefore the company demands the annulment of the decision with regard to the clauses where there was a difference between the operative part of the decision and the decision of the Adjudication Circuit. With regard to the clause (Remuneration of the Board of Directors), the Taxpayer argued that the clause represents fees for the members of the Board of Directors in return for their management of the company's affairs, as the members of the Board of Directors are the party in charge of the administrative burdens within the company, so the amounts they receive for their work are legally deductible amounts due to their connection to the annual realized income, which is an element of the Zakat base, and that the Board of Directors are appointed by the partners to monitor and supervise the company's business management and receive this remuneration on an annual basis due to their actual work, and the Taxpayer provided evidence that these amounts were paid out of the company's liability, adding that what was paid to members of the Supervisory Board with regard to the clause (Salaries and Wages), the Taxpayer argued that the amounts recognized as salaries and wages in the company's accounts and included in its declaration are documented from the accounting books and records as well as the financial statements audited by a licensed Saudi auditor, and that these amounts represent the actual salaries and benefits paid to employees, while the salaries and wages declared according to the social insurance certificates include only the basic salaries and housing allowances for employees registered with the General Organization for Social Insurance (GOSI). The Taxpayer argued that the donations expense consists mainly of amounts paid for charitable purposes to less fortunate members of society. These charitable amounts were paid in accordance with management's directives, and management actively monitored the payment of these amounts by approving the lists of beneficiaries and reviewing the acknowledgments of receipt from each person approved on these lists and signing the acknowledgments of receipt. With regard to the clause (underinvestment in subsidiaries), the Taxpayer requests that the Circuit's decision on this clause be annulled on the grounds that this clause was accepted when the decision was pronounced in the minutes of the hearing, but when the decision was received, the clause was rejected without justification or warning, and the company had attached the document proving the transfer of ownership of the shares. Regarding the clause (increase in capital), the Taxpayer indicates that the capital consists of (1080) shares of (113) riyals each with a total value of (122,040) riyals, and the company decided in November 2017 to update the company's memorandum of association in accordance with the Companies Law, which includes increasing the capital, and the Ministry of Commerce and Investment issued in the subsequent period an amended commercial register on March 4, 2018AD, as mentioned in the financial statements for the year



ended December 31, 2018 on page (33), a copy of which is attached in Annex (7) by increasing the capital to (5),sar 5,000,000, and when preparing the Zakat return for 2018AD, the company subjected the opening balance of the capital to Zakat in the amount of SAR 122,040, but the defendant subjected the closing balance of SAR 5,000,000, despite the lack of conversion. With regard to the clause (Investments in subsidiaries), the Taxpayer requests that the Circuit's decision on this clause be canceled on the grounds that this clause was accepted when the decision was pronounced in the session minutes, but upon receipt of the decision, the clause was rejected without justification or warning, and the company has attached the Zakat declarations of the investee companies and documents proving that the investment is registered in the name of the company. With regard to the clause (amounts due from related parties), the Taxpayer demands that the Circuit's decision on this clause be canceled on the grounds that this clause was accepted when the decision was pronounced in the minutes of the session, but upon receipt of the decision, the clause was rejected without justification or prior warning, and the company has submitted financial statements and zakat declarations to the related parties at all stages of the objection, and the company has sent an email to the General Secretariat for Zakat, Tax and Customs Committees containing the financial statements and zakat declarations, and it was confirmed by the Secretariat to receive the attachments on 14/9/2022. Regarding the clause (provision for severance pay), the Taxpayer argued that the company treats the provisions by adding the balance of the first period that fell due after deducting the payments made during the year, and adjusting the net result of the year with all the provisions formed during the year, except for the Zakat provision, where the net profit of the year before Zakat is used, and therefore there is no room for it in light of the movement of the provisions, the company adjusted the net result of the period by the amount of the component provisions and at the same time subjected the balance that came due after deducting the payments made during the year, but the defendant added the balances transferred from sister companies during the year to the balance that came due after deducting the payments made during the year, but the defendant added the balances transferred from sister companies these balances were transferred during the year, and this can be seen from the cash flow movement in the financial statements as they are non-cash transactions, as well as transfers from sister companies, which means that they are not in any way a charge to the expenses of the period hence, they cannot be subjected to Zakat because they are not charged to the accounts on the one hand, and on the other hand, they are not subject to transfer from the sister company during the disputed period, and the sister company, when it formed the provision in its accounts, subjected the component of it to Zakat because it was charged to its expenses in the year of formation.

The decision was not accepted by the Zakat, Tax and Customs Authority, which filed its appeal against the challenged decision by means of an appeal regulation that included the following summary:

With regard to the Authority's appeal against the decision of the Adjudication Circuit, the Authority's appeal lies with regard to (the material errors contained in the decision), requesting the annulment of the Circuit's



decision on this clause on the grounds that the decision is in accordance with the objectionable clauses, while the operative part of the decision is different from the objectionable clauses and years, and therefore the Authority requests that the operative part of the decision be amended to comply with its merits and the record, as well as with the regulations of the case. The 2014 statute of limitations and related clauses are as follows: remuneration of Directors in 2014, Salaries and wages in 2014, Gains (losses) on investments in subsidiaries in 2014, Additional capital in 2014, Unrealized gain on revaluation of investments in 2014, Investments in subsidiaries in 2014, Provision for severance pay in 2014): the Authority maintains the contents of its Reply Memorandum submitted to the Adjudication Circuit, and refers to it in order to avoid repetition and prolongation. Regarding the clause (Profits (losses) of investment in subsidiaries) it requests the cancellation of the Circuit's decision on this clause on the grounds that it requested additional information on 01/01/1442 AH, an explanatory and detailed statement of investments, indicating the movement for each investment, identifying the company's unique number with the Authority and attaching the financial statements of the investee companies in addition to the memorandum of association and ownership documents. Accordingly, the profits (losses) of investments in subsidiaries were adjusted according to the equity method, and when studying the objection, the assessments prepared by the Authority for the years under objection were referred to, which showed that the company's share in losses / profits of subsidiaries for 2014 was adjusted by (15,248,067.) Riyals and for 2018 by (16,763,437) riyals , accordingly, the Taxpayer's objection was rejected in accordance with this clause because of the validity and soundness of the Authority's procedure, and the Circuit issuing the decision under appeal canceled the Authority's decision due to the Taxpayer's submission of the explanatory statement and the Authority responds that the adjustment of the net result in the clause raised by (15,248,067) SAR, (16,763,437 riyals, respectively, according to the financial statements and the treatment of these losses in the investment balance, as they were augmented by the losses in the investment clause that were deducted from the zakat base, and based on the above-mentioned arguments, it is clear that what was added to the net result from investment losses was deducted from the zakat base within investments and zakat is on the zakat base, which makes the decision flawed. With regard to the clause "Unrealized Gains from Revaluation of Investments", it requests the annulment of the Circuit's decision on this clause on the grounds that it treated the balance of unrealized gains with the balance of investments deducted from the Zakat base for the disputed years and at the same time added the same balance to the Zakat base for the disputed years, and therefore there is no impact. Accordingly, the objection was rejected according to this clause due to the correctness and integrity of the Authority's procedure, and the Authority explains that when assessing, it added the unrealized gains to the Zakat base and on the negative side of the Zakat base, it deducted the unrealized gains from the Zakat base for the years under objection within the investments, and therefore the effect was excluded from this clause, making the decision flawed.

On Wednesday, on: 26/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication



in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 8/4/1445 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 reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, 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 means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, and with regard to the Authority's appeal regarding the clause "Material Errors in the Decision", the Authority requests the annulment of the Circuit's decision on this clause, on the grounds that the decision's operative clauses agree with the objectionable clauses, while the operative clauses and years of the decision are different from what was objected to, and accordingly the Authority requests that the operative clauses of the decision be amended to comply with its merits and the record as well as with the lawsuit regulations. Based on the above, and upon reviewing the file of Case No.Z-44839-2021, it found that the decision issued by the Circuit was amended and attached to the case file after the amendment, which leads this circuit to dismiss the Authority's appeal.

With regard to the Taxpayer's appeal regarding the material errors contained in the decision, Article 70 of the Sharia Procedure Law promulgated by Royal Decree No. M/1 dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. 'If the agreement is reached before the case is settled, the content of the case and the response must be recorded before the agreement is recorded, taking into account that the original case falls within the jurisdiction of the court, even if the content of the agreement falls within the jurisdiction of another court or Circuit, provided that the merits of the case or part thereof is among the matters agreed upon.' Based on the foregoing, and since this court has established that the Taxpayer requested to withdraw the appeal as stated in his letter in the supplementary memorandum, which reads, 'We wish to inform you that we are withdrawing our appeal on the following grounds: 1- Material errors in the decision of the adjudication committee...', which means that the Circuit must accept the Taxpayer's abandonment of the litigation.



Whereas, regarding the Authority's appeal regarding the 2014 statute of limitations and related clauses, which are as follows: the clause of remuneration of members of the Board of Directors in 2014, the clause of salaries and wages in 2014, the clause of gains (losses) on investment in subsidiaries in 2014, the clause of additional capital in 2014, the clause of unrealized gains on revaluation of investments in 2014, the clause of investments in subsidiaries in 2014, the clause of provision for severance pay in 2014) and where Article (70) of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the case and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon based on the above, and where it has been proven to this Circuit the Authority's request to abandon the appeal as stated in the letter issued by the Authority in the attached memorandum, which contains the following: "The Authority informs your esteemed Circuit of the abandonment of its appeal regarding the statute of limitations clause for 2014 and its subsidiary clauses and the procedures resulting from the Authority's appeal for this clause, in accordance with the decision of the Adjudication Circuit...", which requires the Circuit to accept the acceptance of abandoning the litigation regarding the Authority's appeal on the statute of limitations clause for 2014 and its subsidiary clauses.

Whereas, regarding the Authority's appeal regarding the clause (Profits (losses) of investment in subsidiaries for the year 2018 (SAR 1,770,187)) the Taxpayer's objection to this clause was rejected due to the validity and soundness of the Authority's action, and indicated that the Circuit issuing the decision under appeal canceled the Authority's decision due to the Taxpayer's submission of the explanatory statement, and the Authority responds that the adjustment of the net result of the clause raised by (15,248,067 riyals) and (16,763,437)riyals for the year 2018AD, according to the financial statements 15,248,067 riyals, (16,763,437) riyals, respectively, according to the financial statements and the treatment of these losses in the investment balance, which was augmented by the losses in the investment clause that was deducted from the Zakat base, which makes the decision flawed. Whereas paragraph (4) of clause (Second) of article (fourth) of the executive regulation for the collection of zakat issued by ministerial decision number (2082) dated 01/06/1438 AH states that: "The following shall be deducted from the zakat base:" 4- (A): investments in establishments inside the Kingdom - in partnership with others - if those investments are subject to the collection of zakat under this regulation, if the investment in those establishments is not subject to collection, it is not deducted from the base." Based on the above, the dispute between the parties lies in the Authority's argument that it adjusted the profits (losses) of investments in affiliated companies by (16,763. 437) riyals for the year 2018 according to the financial statements, and the treatment of these losses in the



investment balance, as they were increased by the losses in the investment clause that was deducted from the Zakat base, but the Taxpayer argues that the Authority accepted the treatment taken by the company according to the financial statements for the year 2015AD, but rejected it for the years 2014 and 2018AD, the company adjusted the net result for the year by deducting the investment gains/losses in the invested companies for not being discouraged in Zakat, and reducing the value of the investments deducted from the Zakat base by the same amounts, and upon reviewing the case file, the Circuit found that the amount (16,763,437 riyals, which was added to the net result by the Authority, is the company's share in the losses of associates and subsidiaries, and the Authority has adjusted the total investment that was deducted by adding the same amount, and therefore, since the effect of the losses has been excluded, and the Circuit has proven the correctness of the Authority's action, the Circuit must accept the Authority's appeal and cancel the decision of the Circuit of Determination regarding the clause (1,770,187 riyals) profits (losses) of investment in affiliated companies for the year 2018 .

Regarding Authority's appeal regarding the clause (Unrealized Gains from Revaluation of Investments amounting to SAR (689,300,429) for 2015 and SAR (511,381,945) for 2018), it requests that the Circuit's decision on this clause be overturned on the grounds that it treated the balance of unrealized gains with the balance of investments deducted from the Zakat base for the disputed years and simultaneously added the same balance to the Zakat base for the disputed years and accordingly, there is no impact. Whereas paragraph (4) of clause (Second) of article (fourth) of the executive regulation for the collection of zakat issued by ministerial decision number (2082) dated 01/06/1438 AH states that: "The following shall be deducted from the zakat base:" 4- (A): based on the above, the dispute between the parties lies in the Authority's argument that it treated the balance of the unrealized gains with the balance of the investments deducted from the Zakat base for the years in dispute, adding the unrealized gains to the Zakat base and, on the negative side of the Zakat base, deducting the unrealized gains from the Zakat base for the years in dispute." The Circuit's review of the Authority's action shows that it recognized the unrealized gains in the Zakat base on the negative side of the Zakat base, it deducted the unrealized gains from the Zakat base for the disputed years. Upon reviewing the Authority's action, the Circuit found that it recognized the unrealized gains within the Zakat base and deducted the investment balance at the end of the period including the unrealized gains, thus excluding their impact, which means that the Authority's appeal should be accepted and the decision of the Adjudication Circuit should be annulled with regard to the clause Unrealized gains from revaluing investments in the amount of (689,300,429 SAR for 2015 and (511,381,945) SAR for 2018.

Regarding the Taxpayer's appeal regarding the clause "Decrease in investments in affiliated companies for the year 2018 by (15,656,969 riyals), and where Article (70) of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive



regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. 'If the agreement is reached before the case is settled, the content of the case and the response must be recorded before the agreement is recorded, taking into account that the original case falls within the jurisdiction of the court, even if the content of the agreement falls within the jurisdiction of another court or Circuit, provided that the merits of the case or part thereof is among the matters agreed upon.' Based on the foregoing, and since this court has established that the Taxpayer requested to withdraw the appeal as stated in his letter in the supplementary memorandum, which reads, 'We wish to inform you that we are withdrawing our appeal on the following grounds: 2- Impairment of investments in subsidiaries for 2018...', which means that the Circuit must accept the Taxpayer's abandonment of the deduction for the clause of impairment of investments in subsidiaries for 2018 in the amount of (15,656,969 riyals).

Regarding the Taxpayer's appeal regarding the clause (Investments in affiliated companies amounting to SR 52,131,587 for 2015 and SR 13,532,900 for 2018), Article (70) of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. 'If the agreement is reached before the case is settled, the content of the case and the response must be recorded before the agreement is recorded, taking into account that the original case falls within the jurisdiction of the court, even if the content of the agreement falls within the jurisdiction of another court or Circuit, provided that the merits of the case or part thereof is among the matters agreed upon.' Based on the foregoing, and since this court has established that the Taxpayer requested to withdraw the appeal as stated in his letter in the supplementary memorandum, which reads, 'We wish to inform you that we are withdrawing our appeal on the following grounds: 3- Investments in subsidiaries for the years 2015 and 2018', which means that the Circuit must accept the Taxpayer's abandonment of the deduction for the clause Investments in subsidiaries in the amount of (52,131,587) SAR for 2015 and (13,532,900) SAR for 2018.

Regarding the Taxpayer's appeal regarding the clause (amounts due from related parties in the amount of (408,218,849) riyals for the year 2018), and where Article (70) of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. 'If the agreement is reached before the case is settled, the content of the case and the response must be recorded before the agreement is recorded, taking into account that the original case falls within the jurisdiction of the court, even if the content of the agreement falls within the jurisdiction of



another court or Circuit, provided that the merits of the case or part thereof is among the matters agreed upon.' Based on the foregoing, and since this court has established that the Taxpayer requested to withdraw the appeal as stated in his letter in the supplementary memorandum, which reads, 'We wish to inform you that we are withdrawing our appeal on the following grounds: 4- Amounts due from related parties for the year 2018AD...', which means that the Circuit must accept the Taxpayer's abandonment of the deduction for the clause of amounts due from related parties in the amount of (408,218,849) riyals for the year 2018AD.

Regarding the **Taxpayer**'s appeal regarding the provision for severance pay in the amount of (388,056) the Taxpayer argued that the company treats the provisions by adding the balance of the first period that came due after deducting the payments made during the year, and adjusting the net result of the year with all the provisions formed during the year except for the Zakat provision, where the net profit of the year before Zakat is used and therefore there is no way to adjust the net profit of the year, and the company adjusted the net result of the period by the value of the component provisions and at the same time subjected the balance that came due after deducting the payments made during the year, but the defendant added the balances transferred from sister companies during the year these balances were transferred during the year and this is evident from the movement of cash flows in the financial statements as they are non-cash transactions and also show that they are transfers from sister companies, which means that they are not in any way charged to the expenses of the period and therefore they cannot be subjected to Zakat because they are not charged to the accounts on the one hand, and on the other hand, they have not been transferred from the sister company during the contested period, and the sister company, when it formed the provision in its accounts, subjected the component of it to Zakat because it was charged to its expenses in the year of formation. And since paragraph (9) of clause (First) of Article (4) of the executive regulations for the collection of Zakat issued by the Minister of Finance's decision No. (2082) dated 01/06/1438 AH stated: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 9 based on the above, the dispute lies in the Taxpayer's claim that balances transferred from sister companies during the year should not be added to the year-end balance, as these balances were transferred during the year and did not come due, but the Authority argues in its reply memorandum before the Circuit of Dispute Resolution that it treated the end-of-service bonus provision by adjusting it by component according to the cash flow statement and deducting the end-of-period balance in the component and subjecting the revolving balance to Zakat however, upon reviewing the draft reconciliation, it was found that the Authority added the initial balance plus the transfer during the year after deducting the payments made during the year and the actuarial gains charged to other comprehensive income in the amount of (4,266,633) SAR, which makes it clear that the Authority's procedure is incorrect, as the transfer to the company during the year did not fall due, and the Zakat treatment of the provisions is to add the first balance of the period after deducting the user during the year, which leads this circuit to accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit regarding the provision for severance pay of (388,056) SAR for the year 2018AD.



Regarding the Taxpayer's appeal on the remaining clauses in the case. Whereas there is no fault in the court's adoption of the grounds for the contested decision without adding to them, since it deemed that those grounds were sufficient and did not require the addition of any new information, because in upholding it on the grounds set out in those reasons, it confirmed that it did not find in the objections raised against the decision anything that warranted a response beyond what was contained in those reasons. That being the case, and since it has been established that the decision under appeal in the dispute concerning the contested clauses is consistent with the valid reasons on which it is based and sufficient to support its ruling, as the court that issued it examined the substance of the dispute and reached the conclusion set out in its ruling. This court did not find anything that would warrant correction or comment in light of the arguments presented before it. This court therefore rejects the appeal and upholds the decision of the court of first instance in its entirety regarding the remaining clauses of the claim, based on the reasons given.

Based on the foregoing and considering the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company... Holding, Commercial Register (...), Unique Number (...) The appeal submitted by the Zakat, Tax and Customs Authority against the decision of the third circuit regarding violations and disputes of income tax in Riyadh with number (ITR-2024-1) issued in case number (Z-44839-2021) related to the tax assessment for the years 2014 ,2015 AND 2018.

Secondly: On the Merits:

1- Regarding the parties' appeal on the material errors clause in the decision:

A. Dismissing the Authority's appeal.

B. Accepting to leave the litigation to the Taxpayer.

2- Accepting the abandonment of litigation regarding the Authority's appeal on the 2014 statute of limitations clause and its subsidiary clauses.

3- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the profit (loss) of investment in subsidiaries (1,770,187 SAR) for the year 2018AD.

4- Accepting Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause of unrealized gains from the revaluation of investments in the amount of (689,300,429) SAR for 2015 and (511,381,945) SAR for 2018.

5- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the remuneration of the Board of Directors for the year 2015AD.



6- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the salaries and wages clause in the amount of (14,778,382 SAR) for 2015 and (16,720,220 SAR) for 2018.

7- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the Zakat clause for the year 2018AD.

8- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the capital increase clause for 2018.

9- Accepting the abandonment of litigation regarding the Taxpayer's appeal on the clause of impairment of investments in subsidiaries for the year 2018 in the amount of (15,656,969 riyals).

10- Accepting the abandonment of litigation regarding the Taxpayer's appeal on the clause of investments in subsidiaries for 2015 in the amount of (52,131,587) SAR and for 2018 in the amount of (13,532,900) SAR.

11- Accepting the abandonment of litigation regarding the Taxpayer's appeal on the clause of amounts due from related parties for the year 2018 in the amount of (408,218,849) riyals.

12- Accepting the Taxpayer's appeal and canceling the decision of the adjudication allowance for the year 2018 in the amount of (388,056 riyals).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-167435

Case No. Z-167435-2023

Keywords:

Zakat – Adjustment to net profit – not allowing current year profit used to finance fixed assets – accepting the authority's appeal

Summary:

The objection of the Zakat, Tax and Customs Authority to the decision of the first circuit to rule on violations and disputes regarding income tax in Dammam number (IZD-2022-2364), where its appeal is based on some clauses (<2>not allowing current year profit used in <3>financing <4>fixed <5>assets) as it excluded these amounts from net profit because these expenses are considered capital in nature that adjust the activity result during the examination phase. And since the appellate committee established that the authority deducted the entire amount of fixed assets according to the financial statements from the zakat base, and that what the Taxpayer claims to deduct from the adjusted profit, and since the assets are of a capital nature and are depreciated over the asset's life, thus the deduction is only in the zakat base and there is no legal or accounting basis for deducting it from the adjusted net profit. Consequently, accepting the authority's appeal and canceling the decision of the ruling circuit on this clause.

Document:

- Paragraph (2) of Article (4) of [The executive regulation for collecting zakat issued by the decision of His Excellency the Minister of Finance number \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 01/01/2024 by the Zakat, Tax and Customs Authority (ZTCA) against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam City (IZD-2022-2364) issued in Case No. (Z-63311-2021) related to the 2015 Zakat assessment, was considered in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:



Establishing the end of the dispute regarding the disallowance of the net book value of fixed assets and the depreciation difference, and the disallowance of the use of the provision for severance pay deducted from net profit, and overturning the defendant's decision on the remaining clauses at issue.

As this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it filed a list of appeals, which included the following:

The Authority objects to the decision of the Appellate Circuit, claiming that with regard to the clause (disallowing the current year's profit used to finance fixed assets), it excluded these amounts from the net profit because these expenses are considered to be of a capital nature by examining the objection, the Authority maintains the validity and soundness of its procedure in rejecting the Taxpayer's objection based on Article (5) Paragraph (1/C) of the executive regulations governing the collection of Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, it adds that the Circuit that issued the decision under appeal canceled the Authority's decision based on Fatwa No. (23408) dated 18/11/1426 AH. The Authority responds to this with what is stated in the Zakat Collection Executive Regulations 1438 H. The Authority states that the clause is of a capital nature and therefore cannot be deducted based on clause (c) of the first paragraph (1) of Article (5) of the Executive Regulations. The Authority also objects to the clause (disallowing the payment of management fees paid to the shareholder/company...) Accordingly, the Authority requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the foregoing reasons.

On Monday, January 22, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, and where the Circuit found nothing to require the presence of the parties to the appeal, the Circuit decided that the case has become ready for adjudication and issuing a decision on its subject, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Authority, 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 means that the appeal request is accepted procedurally, as it was submitted by a person with standing, and within the statutory period prescribed for its conduct.

On the merits, and as for the Authority's appeal regarding the clause (disallowing the current year's profit used to finance fixed assets), its appeal lies in the fact that it excluded these amounts from the net profit



because these expenses are considered to be of a capital nature that adjusts the result of the activity during the examination phase. And since clause (Second/9/i) of Article (4) of the executive regulation for collecting zakat issued by ministerial number (2082) dated 01/06/1438 AH states that: "When calculating the zakat base for the Taxpayer, the base should not be less than the adjusted net profit for zakat purposes as a minimum." Based on the above, and since it is clear that the authority's appeal is represented in that the clause in dispute is of a capital nature and thus cannot be deducted from the profit of the year, therefore, since the zakat base is determined by deducting the total negative clauses from the total positive clauses forming the base and a specific negative clause is not deducted from a specific positive clause, and since it is clear that the authority deducted the entire amount of fixed assets according to the financial statements from the zakat base, and that what the Taxpayer claims to deduct from the adjusted profit, and since the assets are of a capital nature and are depreciated over the asset's life, thus the deduction is only in the zakat base and there is no legal or accounting basis for deducting it from the adjusted net profit, which leads the circuit to accept the authority's appeal and cancel the decision of the ruling circuit on this clause.

Regarding the Authority's appeal on the remaining clauses in the case. Having considered the merits of the dispute, and having reviewed the Authority's appeal, the Circuit may adopt the reasons for the challenged decision without adding to them when it determines that these reasons do not contain anything new, because in supporting them, it is clear that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and since it is established that the decision under appeal regarding the disputed clauses was consistent with the valid reasons on which it was based and sufficient to carry its judgment, as the issuing circuit scrutinized the dispute in it and came to the conclusion in the operative part of the decision, and the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and where this Circuit found that the conclusion reached by the Adjudication Circuit in its decision is correct, and that the reasons on which it based its decision are sufficient to uphold that decision, and where this Circuit did not notice anything that warrants an appeal or comment in light of the defenses raised before it, which concludes this Circuit to reject the Authority's appeal and uphold the decision of the Adjudication Circuit in the remaining clauses at issue in the case, bearing in mind its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Accepting the appeal procedurally from its submitter/ Zakat, Tax and Customs Authority, against the decision of the first circuit to rule on violations and disputes regarding income tax in Dammam with the number (IZD-2022-2364) issued in case number (Z-63311-2021) related to the zakat assessment for the year 2015AD.

Second: On the Merits:



- 1- Accepting the authority's appeal and canceling the decision of the ruling circuit regarding clause (not allowing current year profit used to finance fixed assets).
- 2- Rejecting the authority's appeal and upholding the decision of the ruling circuit regarding clause (not allowing payment of management fees paid to shareholders .../
- 3- Rejecting the authority's appeal and upholding the decision of the ruling circuit regarding clause (not allowing fees for board members).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2023-143268

Case No. ZW-2022-143268

Keywords:

Zakat-Adjustments to net profit-Not reducing adjusted profits by distributed profit-Acceptance of Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-1134), where his appeal lies on the clause (Loans and the like) for financing orders for the purchase of goods according to a tripartite agreement between the company, the bank and the supplier with a term of only (105) days and fully repaid, the clause (Non-deduction of provisions for 2017 and 2018 from the net book profit of the partners) to claim the deduction of user balances from the company's net book profit, and the clause (Life insurance expense) to claim the deduction of user balances from the (Life Insurance Expense) to claim that it should be deducted from the net book profit of the company, and (No Reduction of Adjusted Profit with the profit distributed from the profit of the year for the years 2016 to 2018) to argue that the adjusted profit should not be reduced as it is the return of capital, which is considered an element of the Zakat base. The appellate committee found that these distributions occurred during the year in phased periods (quarterly), resulting in a deficit in the retained earnings balance, which is a result of the company's method of distributing profits, and there is a legal evidence to determine the necessity of imposing zakat on wealth that the Taxpayer no longer owns after transferring it to others before the year has passed on it. Consequently, it accepted his appeal and canceled the decision of the circuit regarding the clause (not reducing the profits adjusted by the distributed profit from the profit of the year), and the clause (life insurance expense), and the clause (not reducing the profits adjusted by the distributed profit from the profit of the year), and the clause (loans and similar clauses), and rejected his appeal and upheld the decision of the circuit regarding the clause (not deducting the provisions).

Document:

- Paragraph (1,4) of Article (9) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:



The appeal was heard on: 2022/09/01, from (...), National ID No. (...), as agent for the appellant company by virtue of agency No. (...), and the appeal filed on: 2022/11/6 the Zakat, Tax and Customs Authority (ZTCA), on the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-1134) issued in Case No. (ZW-37852-2021) regarding the Zakat assessment for the years 2016 to 2018AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: The Taxpayer's claim was filed by the Taxpayer against the Zakat, Tax and Customs Authority:

First: accepting the lawsuit filed by the plaintiff/company ..., commercial registration number (...), against the defendant/Zakat, Tax and Customs Authority.

Secondly: On the Merits:

- 1- Recognize the end of the dispute regarding the capital losses for 2016, from the clause (Depreciation difference for 2016/2018).
- 2- Recognizing the end of the dispute regarding the withholding tax and late penalty, from the clause (Statutory Expenses for the years 2016 to 2018).
3. Reject them for the remaining clauses.

Since this decision was not accepted by the appellant (...) The Taxpayer appealed to cancel the decision of the Adjudication Circuit regarding this clause on the basis that the company followed the depreciation method stipulated in Article (17) of the Tax Law, in line with the Authority's Circular No. (2574) dated 14/5/1426 AH, which clarified the procedural provisions and accounting rules contained in the Tax Law the Taxpayer has complied with the law as explained above, as the said circular was followed by the zakat Taxpayers when submitting their returns for the years in question, therefore, it is not permissible to charge the Taxpayer now for a depreciation method that was not available when submitting the return and is not responsible for these changes, on the contrary, the capital losses for the year 2016AD were recognized in the amount of (92. 772) SAR , which put the company in confusion regarding the depreciation method followed by the Authority, noting that capital gains losses are related to the application of the depreciation method contained in Article (17) of the Tax Law, so the Taxpayer demands that the net profit be adjusted with the depreciation differences according to the company's calculation when issuing the amended assessment for the years 2016 and 2018.



With regard to the clause (Guarantee fees due for 2016 as a provision and the clause used from the provision for doubtful debts for the years 2016, 2017 and 2018), the Taxpayer requests the annulment of the decision of the Adjudication Circuit regarding this clause on the grounds that the accrued guarantee fees are an accrued expense, and what is confirmed by the tabulation in the financial statements approved by a certified auditor within the Kingdom, in addition to the fact that the accrued expenses are confirmed liabilities and not probable, so the guarantee fees cannot be considered as a provision the plaintiff relied on the provisions of the Zakat Collection Law issued in 1370 AH and Sharia Fatwa No. (2305). He added that the company executed these debts based on a study and follow-up procedures to try to collect them, and when it was determined that it was impossible to collect these debts, the Audit Committee conducted a study to confirm this and the decision was taken, and the doubtful debts were certified by a certified public accountant in the Kingdom who issued the company's financial statements.

With regard to the clause (failure to deduct the provisions for 2017 and 2018 from the net book profit of the partners), the Taxpayer requests that the decision of the Adjudication Circuit regarding this clause be canceled on the grounds that the Authority did not deduct the user from the provisions amounting to (35,939,737) riyals for 2017 and (25,101,468) riyals for 2017 and 2018AD, in accordance with the statutory instructions that the Zakat base must not be less than, and the Taxpayer demands that the balances of the user of provisions be deducted from the net book profit of the company, given the statutory instructions that require that the Zakat base should not be less than the profits of the year, it is more appropriate when applying this rule to deduct the user of provisions from the profit of the year instead of deducting from the Zakat base from the balance of the first period. Regarding the clause (statutory expenses for the years 2016 to 2018), the Taxpayer argued that the expenses are actual expenses incurred by the company during the mentioned years, and they are actual and necessary expenses for the continuation of the activity, so the Taxpayer demands the deduction of the disputed expenses for the years 2016AD to 2018AD.

The Taxpayer argued that the company's objection in this clause includes its objection to not reducing the net profit adjusted by the distributed profit from the year's profit for the years 2016 to 2018AD, as well as its objection to not considering these distributions when calculating the Zakat base in excess of the profit retained at the beginning of the year, in accordance with the conditions for the obligation of Zakat the Taxpayer also objected to the failure to consider these distributions when calculating the Zakat base in excess of the retained earnings at the beginning of the year, as one of the conditions for the obligation of Zakat is that the money must be the property of the company, and by full ownership is meant that the company has full possession that enables it to dispose of the money, which is not the case, as the dividends are amounts that came out of the profit of the year for the years 2016AD through 2018AD dividends are amounts that came out of the company's liability and were deposited to shareholders according to the dividend distribution resolutions issued by the board of directors, and among the legal conditions for the obligation of zakat is that the money must have passed (12) months to be subject to zakat, which is also not



the case, since the company distributed the dividends before the turn of the year this is also not the case, as the company distributed the dividends before the turn of the year and it is not permissible to zakat them, as the instructions of the true Sharia emphasize that it is not permissible to zakat the money that has left the Taxpayer's liability, and from the legal point of view, zakat has its rules that must be applied when calculating the zakat base, and anything that violates these rules is not considered, and whereas the Authority's acceptance of the deduction of dividends only within the limits of the balance of retained earnings at the beginning of the year, and its failure to accept the deduction of distributions in excess of the balance of retained earnings at the beginning of the year represents a contradiction in the Zakat treatment of the same transaction, as the acceptance of the deduction of dividends within the limits of the balance of retained earnings has a clear reason, namely the payment of dividend funds to shareholders and the decrease in invested funds with these distributions that went from the company's liability to its shareholders during the year, this applies fully to actual distributions in excess of the balance of retained earnings that result in a decrease in funds invested in the company, therefore it is not possible therefore, the source of the distributions can only be the profits realized during the year, and therefore the distributions must be fully deducted, in addition to the fact that the executive regulations for the collection of zakat did not include an explicit provision to accept the deduction of profits in excess of the balance of retained profits at the beginning of the year, whether from the adjusted net profit or consequently from the zakat base, does not mean that the basis for such a procedure is not valid, as interim distributions are a new method in dividends and contrary to the custom of companies to distribute profits after the financial statements are issued, but it is not contrary and not different in nature from retained profits balance at the beginning of the period.

Regarding the clause "Refusal to deduct fixed asset additions that were financed from the profit of the year for the years 2016 to 2018", where the Taxpayer paid the profits of the year were used to finance the additions to the canal offerings, as the additions to these long-term assets during the year would not have been financed from the profits realized during the year that did not fall due, and the company relies in its treatment on Fatwa No. (23408) issued on 18/11/1426 AH, which stipulated in the answer to the fourth question as follows:" as for what the Authority stated in its reply note that the company and its chartered accountant have acknowledged in the company's financial statements that the entire adjusted profit is subject to Zakat, relying on the company's financial statements for 2018AD, the Taxpayer points out that the Authority failed to mention that the company and its chartered accountant have stated in paragraph (2-14) of the same note that the adjusted net profit has been deducted from it in excess of the balance of the retained earnings at the beginning of the year²) of the same clarification that the adjusted net profit was deducted from it the dividends distributed in excess of the balance of retained earnings at the beginning of the year, and therefore, the Authority's claim is incorrect as the company did not in any way acknowledge that the adjusted profits are fully subject to Zakat. With respect to the clause "Non-deduction of amortization of deferred Revenue for 2016", the Taxpayer appeals the decision of the Adjudication Circuit regarding this clause on the basis that there is no statutory basis for refusing to deduct the amortization of



deferred Revenue for 2016 from the adjusted net profit. With regard to the clause "Adding credit balances to the Zakat base for the years 2016 and 2017", the Taxpayer appeals the decision of the Adjudication Circuit regarding this clause on the basis that these amounts are not considered loans and should not be subject to Zakat, and if they are not financed with cannabis offers, the company based its opinion on a number of fatwas stating that Zakat is obligatory on the lender and not the borrower.

The Taxpayer argued that these temporary expenses are long-term capital expenditures, which are required to be deducted by the Zakat Executive Regulations, and that these expenses have been paid in full and are no longer part of the company's liability, so they should be deducted. Regarding the clause (Disallowing the deduction of the adjustments to the carry-forward profits for the year 2017), the Taxpayer appeals the decision of the Adjudication Circuit, noting that the adjustments to the balance of carry-forward profits for the year 2017 amounted to SAR (608,581), representing the adjustments in other comprehensive income resulting from the reversal of severance pay resulting from the application of IFRS 9 in the amount of SAR (3,610,220). With regard to the clause (Loans and similar clauses), the Taxpayer appeals the decision of the Adjudication Circuit regarding this clause on the basis that the loans consist of financing orders for the purchase of goods according to a tripartite agreement between the company, the bank and the supplier and the term of these loans is (105) days only and was fully repaid on the maturity dates during 2018AD, and this was clarified in the audited financial statements for the year it is fully related to the operational activities of the company, as it was used to purchase inventory and not long-term assets, and that the loan was fully repaid during the year and did not fall due, as shown in the financial statements for the year ended December 31, 2018AD, where it appears that the loan (financing) was the only loan outstanding at the beginning of 2018AD, with a balance of (84,153,000 SAR (shown in Note (9) under the name "Purchase Order Financing Tawara Facility" with a balance of (84,153,000) SAR on 31/12/2017 (the first of the year 2018) and there is no balance on 31/12/2018 as it was fully repaid during the year 2018AD, and the Authority claims in its reply note and what the company provided is an analytical statement showing the payment of the first year balance of (84,153,000) SAR of the facility granted by the bank.... The Authority failed to mention that the company provided 15 bank account statements. Each movement on the analytical statement represents the funding of a specific purchase order with a reference number, and the bank statements show ... The repayment of these financing amounts showing the distinctive reference number, leaving no doubt that the balance of the financing shown at the beginning of the year 2018 was fully repaid and that the last repayment of this financing was made on 10/04/2018AD, which makes it impossible for this financing or any part of it to have come due, and the Taxpayer presented in the appeal memorandum the tripartite agreement between the company, the bank and the supplier as requested, so if the balance of this financing is "zero" at the end of the year 2018 as explained above (which in itself is conclusive evidence that this financing has not come due), and if the company has submitted documents that conclusively prove that the balance of the first of the year (84,153,000 SAR) has been fully repaid, in



full in the year 2018 for this particular balance and with reference numbers for each purchase order financed.

The Taxpayer appeals the decision of the Dissolution Circuit and demands that Zakat be calculated on the net Zakat base and not on the adjusted profit, as the basis for calculating the Zakat base and determining the amount due requires the existence of the Zaka table amount in the company's possession at the end of Hulu, and since the calculation of the net base requires excluding the amounts that have left the company's possession to reach the Zakat estimate without considering the amount of the adjusted profit, which does not necessarily reflect the existence of the Zaka table amount in the company's possession, and since the calculation of the net base requires excluding the amounts that have left the company's possession to reach the Zakat estimate the main objective of the company is to deduct the dividends and additions of fixed assets that were financed from the profit of the year and used from the provisions for those deductions that went out of its liability in accordance with the legal rules for the obligation of Zakat, in case you decide not to accept the company's request to calculate Zakat on the adjusted net profits, which does not necessarily reflect the presence of the money that is due for Zakat.

The Zakat, Tax and Customs Authority submitted a list of appeals, which was reviewed by the Circuit, which included the Authority's appeal regarding the clause "Proving the end of the dispute regarding the withholding tax and delay penalty from the regular expenses clause for the years 2016AD to 2018AD." The Authority appeals the decision of the Adjudication Circuit, and emphasizes the incorrectness of the conclusion reached by the Circuit issuing the decision, as the Authority did not accept the plaintiff's point of view regarding the clause under appeal in any way, nor did it request the Circuit issuing the decision to rule that the dispute had ended the Authority did not accept the plaintiff's point of view regarding the clause under appeal in any way, nor did it ask the decision-making circuit to rule that the dispute has ended. In fact, the Authority explicitly emphasized the incorrectness and illegality of the plaintiff's request to deduct (withholding tax) from the base, and explicitly clarified that withholding tax expenses are not considered a permissible expense the Authority also points out that what the Circuit relied on in ruling to end the dispute is in fact related to the Authority's acceptance of the plaintiff's viewpoint on the (withholding tax and delay penalty) clause, and has nothing to do with the (statutory expenses) clause, which are two separate clauses, each with its own subject matter, grounds, and requests, and cannot be combined therefore, it is clear that the Circuit's reliance on the acceptance of the Authority's Reply Memorandum is misplaced and that the issuing Circuit did not address this clause and did not adjudicate it in accordance with the statutory requirements, which makes its decision to end the dispute in the clause (Statutory Expenses "Withholding Tax") legally invalid and should be annulled without any doubt.

On Thursday, December 21, 2023, 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 conferencing in accordance with the procedures for remote video litigation; based on the provisions of Article 15, Clause



No. 2 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. 26040 and dated: 21/4/1441 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 reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, 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 means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, with regard to the Taxpayer's appeal on the clause (not deducting the allocations for 2017 and 2018 from the net book profit of the partners), with regard to the appeal on (35,633,835) riyals and (25,101,468) riyals, and where Article (70) of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement occurs before the case is recorded, it is necessary to document the content of the case and the response before recording the agreement, provided that the original case is within the jurisdiction of the circuit, even if the content of the agreement is within the jurisdiction of another court or circuit, provided that the subject of the case or part of it is among what has been agreed upon," and based on the above, and since this circuit has confirmed the end of the dispute between the two parties according to what was stated in the letter issued by the authority in the supplementary memorandum stating that "the authority informs your esteemed circuit after studying the submitted documents that it partially accepts the Taxpayer's objection..." therefore, the Circuit must prove the end of the dispute with respect to the appeal of SAR 35,633,835 and SAR 25,101,468. As for the amount of SAR (305,902), the Taxpayer demands that the decision of the Adjudication Circuit regarding this clause be canceled on the grounds that the Authority did not deduct the user from the provisions amounting to SAR (35,939,737) for the year 2017 and SAR (25,101,468) for the year 2017 and 2018AD, and the Taxpayer demands that the balances of the user of provisions be deducted from the net book profit of the company, given the statutory instructions that require that the Zakat base should not be less than the profits of the year, it is more appropriate when applying this rule to deduct the user of provisions from the profit of the year instead of deducting from the Zakat base from the balance of the first period. Based on paragraph (9) of clause (First) of Article (4) of the executive regulation for the collection of zakat issued by Minister of Finance Decision No. (2082) dated



01/06/1438 AH, which stated: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 9- Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting the user thereof during the year." Based on the above, and since the Circuit found that the Taxpayer did not submit the documents supporting the write-off, the Circuit must reject the appeal and uphold the decision of the Adjudication Circuit with regard to the amount of SR 305,902.

Regarding the Taxpayer's appeal on the clause (life insurance expenses), the Taxpayer argued that the expenses are actual expenses incurred by the company during the mentioned years, and they are actual and necessary expenses for the continuation of the activity, so the Taxpayer demands the deduction of the disputed expenses for the years 2016AD to 2018AD. Based on paragraph (3) of Article (20) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, which stipulates that "The burden of proving the authenticity of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case he is unable to prove the authenticity of the clauses contained in his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." Based on paragraph (a) of Article 5 (1) of the same regulation, which stipulates that: "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" it must be an actual expense supported by supporting documents or other evidence that enables the Authority to ascertain its authenticity, even if it relates to previous years." Based on the above, and since Zakat is not obligatory on money that has left the Taxpayer's possession, it follows that the Taxpayer is entitled to deduct the life insurance expense for the years in dispute. Whereas the Authority did not dispute the validity of the expense, and whereas it is established by law that all ordinary and necessary expenses may be deducted for the realization of taxable income, provided that they are supported by supporting documents and are related to the realization of taxable income, and whereas the determination of expenses related to the realization of taxable income - unless it is stipulated that it is not deductible or by specifying special controls for it - requires consideration of the current custom to consider these expenses as related to the realization of income or not, and whereas it is customary for companies to compete to provide insurance benefits of all kinds as for the Zakat aspect related to this clause, where it has been proven that the Taxpayer spent the disputed money, and since the principle is that Zakat is not obligatory on money that has left the Taxpayer's possession, which results in the Taxpayer's right to deduct the life insurance expenses for the years in dispute, and where the Authority's opinion is not based on a legal or statutory basis that can be relied upon in connection with this clause it also does not affect the basis of the decision of the adjudication in Article (5) of the Executive Regulation of the Zakat Collection Law issued in 1438 AH, as it was issued later than the years in dispute, so the provisions of the regulation are only applicable to what falls on the date of its enactment in accordance with the principle of non-retroactivity of laws, the provisions of the regulation apply only to what falls on the date of



its entry into force, and its effects do not apply to what occurred before it, in accordance with the principle of non-retroactivity of laws, and the Circuit must accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding the clause (life insurance expense).

Regarding the Taxpayer's appeal on the clause (Not to reduce the adjusted dividend by the profit distributed from the year's profit for the years 2016 to 2018), with respect to the appeal on the following amounts 258,112,000 riyals, 366,228,058 riyals and 388,069,000 riyals, and whereas Article (70) of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement occurs before the case is recorded, it is necessary to document the content of the case and the response before recording the agreement, provided that the original case is within the jurisdiction of the circuit, even if the content of the agreement is within the jurisdiction of another court or circuit, provided that the subject of the case or part of it is among what has been agreed upon," and based on the above, and since this circuit has confirmed the end of the dispute between the two parties according to what was stated in the letter issued by the authority in the supplementary memorandum stating that "the authority informs your esteemed circuit after studying the submitted documents that it partially accepts the Taxpayer's objection..." "Therefore, it is necessary for the circuit to document the end of the dispute regarding the appeal on the following amounts:" 258,112,000 Riyals and 366,228,058 Riyals and 388,069,000 Riyals. As for the following amounts: 380,888,000 Riyals and 380,771,942 Riyals and 501,431,000 Riyals, based on paragraph (8) of clause (First) of Article (Fourth) of the executive regulations for collecting zakat issued by the Minister of Finance's decision No. (2082) dated 01/06/1438 AH, which stated the following: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8- The balance of retained earnings from previous years at the end of the year," and based on the above, and upon reviewing the case file where the authority argued that the adjusted profit cannot be reduced as it is considered a return on capital, which is an element of the zakat base, the circuit sees that these distributions occurred during the year in phased periods (quarterly), resulting in a deficit in the retained earnings balance, which is a result of the company's method of distributing profits, and since there is legal evidence to determine the necessity of imposing zakat on wealth that the Taxpayer no longer owns after transferring it to others before the year has passed on it, it is necessary for the circuit to accept the appeal and cancel the decision of the circuit regarding the following amounts:" 380,888,000 Riyals and 380,771,942 Riyals and 501,431,000 Riyals, and the full deduction of the profit distributions that occurred during the year from the zakat base without limiting it to the opening balance of the zakat base.

With regard to the Taxpayer's appeal on the clause (Loans and the like for the year 2018), the Taxpayer appeals the decision of the Adjudication Circuit regarding this clause on the basis that the loans consist of



financing orders for the purchase of goods according to a tripartite agreement between the company, the bank and the supplier and the term of these loans is only (105) days and was fully repaid on the due dates during the year 2018AD, and this was clarified in the audited financial statements for the mentioned year, which is thus fully related to the operational activities of the company. Based on paragraph (First/5) of Article (4) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, it states that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. Based on the above, loans are considered one of the components of the Zakat base, regardless of their type, source or classification, if they are used to finance assets that are deducted from the Zakat base without requiring them to turn over, and the Circuit reviewed the documents in the case file, the bank account statement ... The agreement between the company, the bank and the supplier and the bank statements show that the loans were repaid during the year, which makes it necessary for the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding the clause (loans and the like for the year 2018).

With regard to the Taxpayer's appeal on the remaining clauses, whereas there is no fault for the Circuit to adopt the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with the content of these reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what was included in these reasons, and whereas it is established that the decision under appeal regarding the disputed clauses was consistent with the valid reasons on which it was based and sufficient to support its decision since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the outcome it reached on the clauses at issue in the case, bearing in mind its reasons.

Based on the foregoing and considering the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from its submitter/ Company..., Commercial Registration (...), Unique Number (...), and the Zakat, Tax and Customs Authority, against the decision of the second circuit regarding the violations and disputes of income tax in Riyadh with the number (ISR-2022-1134) issued in case number (ZW-37852-2021) related to the zakat assessment for the years from 2016AD to 2018AD.

Second: On the Merits:



1- Rejecting the Taxpayer's appeal and upholding the decision of the circuit regarding the clause (depreciation difference for the years 2016 and 2018).

2- Rejecting the Taxpayer's appeal and upholding the decision of the circuit regarding the clause (guarantee fees due for 2016 as a provision and the clause of the user from the doubtful debts provision for the years 2016, 2017AD, and 2018).

3- Regarding the Taxpayer's appeal on the clause (not deducting the provisions for the years 2017 and 2018 from the partners' book net profit):

A- Confirming the end of the dispute regarding the appeal on the amount of 35,633,835 Riyals and the amount of 25,101,468 Riyals

B- Rejecting the appeal and upholding the decision of the circuit regarding the amount of 305,902 Riyals.

4-Regarding the Taxpayer's appeal on the clause (Ordinary expenses for the years 2016 to 2018):

A-The Taxpayer's appeal is rejected, and the decision of the Appellate Committee regarding the clause (Income tax expense) is upheld.

B-The Taxpayer's appeal is rejected, and the decision of the Appellate Committee regarding the clause (Penalty expense paid to the Capital Market Authority) is upheld.

C-The Taxpayer's appeal is accepted, and the decision of the Appellate Committee regarding the clause (Life insurance expense) is canceled.

D-The matter regarding the Taxpayer's appeal on the clause (Withholding tax) is dismissed.

E-The Taxpayer's appeal is rejected, and the decision of the Appellate Committee regarding the clause (Fines expense) is upheld.

5-Regarding the Taxpayer's appeal on the clause (Non-reduction of adjusted profits by the distributed profit from the annual profit for the years 2016 to 2018):

A-Establishing the end of the dispute regarding the appeal on the following amounts: 258,112,000 Riyals and 366,228,058 Riyals and 388,069,000 Riyals.

B-The appeal is accepted, and the decision of the Appellate Committee regarding the following amounts is canceled: 380,888,000 riyals, 380,771,942 riyals, and 501,431,000 riyals.



6-The Taxpayer's appeal is rejected, and the decision of the Appellate Committee regarding the clause (Rejection of deductions for fixed asset additions financed from the annual profit for the years 2016 to 2018) is upheld.

7-The Taxpayer's appeal is rejected, and the decision of the Appellate Committee regarding the clause (Non-deduction of deferred Revenue write-offs for the year 2016AD) is upheld.

8-The Taxpayer's appeal is rejected, and the decision of the Appellate Committee regarding the clause (Addition of credit balances to the zakat base for the years 2016 and 2017) is upheld.

9-The Taxpayer's appeal is rejected, and the decision of the Appellate Committee regarding the clause (Non-approval of deductions for advance payments for the years 2016 and 2017) is upheld.

10-The Taxpayer's appeal is rejected, and the decision of the Appellate Committee regarding the clause (Non-acceptance of deductions for adjustments on retained earnings for the year 2017) is upheld.

11-The Taxpayer's appeal is accepted, and the decision of the Appellate Committee regarding the clause (Loans and similar for the year 2018) is canceled.

12-The Taxpayer's appeal is rejected, and the decision of the Appellate Committee regarding the clause (The company's claim to calculate zakat on the zakat base and not the adjusted profit) is upheld.



Committee for adjudicating tax violations and disputes
Third Circuit to adjudicate income tax violations and disputes
In Riyadh

Decision No. ITR-2024-231918

Case No. Z - 231918-2024

Keywords:

Zakat - Adjustments to net profit - Revaluation of available-for-sale investments - Rejection of Taxpayer's objection

Summary:

The Taxpayer's objection to the 2021 Zakat assessment, regarding the clause (Revaluation reserve for available-for-sale investments) in the amount of (SAR 178,399,258). The Taxpayer's objection lies in the Authority's addition of this clause among the other additions to the Zakat base as an equity clause, while the Taxpayer believes that these profits are unrealized and based on the revaluation of investments according to fair value, calling for the cancellation of the Authority's decision and reconsideration of its Zakat treatment. The Trial Committee found that the Authority added the revaluation clause to the Zakat base as part of the property rights in accordance with Article 6/6 of the Executive Regulations for Zakat Collection, and that this procedure is correct and in accordance with the accounting standards. Consequently: dismiss the lawsuit on the merits.

Document:

- Paragraph (6) of Article (6) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)

Facts:

The facts of this case are that the plaintiff/company ..., Commercial Registration No. (...), filed by ... National ID number (...) As agent under proxy no. (...), in its objection to the 2021 Zakat assessment, limiting its objection to a clause: (Revaluation reserve for available-for-sale investments for 2021, amounting to SAR 178,399,258): the plaintiff's objection to the defendant's decision to add the amount of the dispute among other additions to the zakat base as an equity clause. The plaintiff states that the financial statements explain the revaluation of available-for-sale investments at fair value based on trading prices, and that the gain or



loss from the revaluation of the shares is essentially unrealized gains or losses the plaintiff states that the Zakat effect cannot be considered and an adjustment to the Zakat base cannot be made because it was not realized. It states that the defendant considered that the investments made profits under the clause (Reserve for revaluation of available-for-sale investments) and that they were subject to Zakat among other additions to the base (Revaluation reserve for available-for-sale investments) with the ending balance in the debt table (Table 13) because it deducted the investments with the ending balance (including the revaluation reserve for available-for-sale investments) to finance the investment during the year, and stated that it did not subject the loans as a financing of the asset, but considered the revaluation reserve for available-for-sale investments as a financing of the asset during the year, because it is added to the extent of the associated investment, and the plaintiff believes that the Zakat effect is not identical, and believes that it is entitled to deduct available-for-sale investments at book value only with adding the corresponding financing sources or not to deduct those investments that are available for sale at book value. It requests the annulment of the defendant's decision that is the subject of the lawsuit. The case was presented to the defendant: clause (Revaluation reserve for available-for-sale investments for 2021, amounting to SAR 178,399,258); she explained that when assessing, it added the clause to the Zakat base as a property right and did not add it within the limits of the deduction from the Zakat base in accordance with paragraph (9) of Article (4) of the Zakat Regulation, and stated that by referring to the objection and the Adjustment to the declaration and financial statements, it found that that it discounted the balance of the end-of-term investments and added the revaluation clause to the Zakat base within a separate clause as equity (classified in the financial statements within equity), and with regard to the plaintiff's objection regarding her request that the clause be included within the debts added to the Zakat base, which are added within the limits of it replies that this procedure is in accordance with her calculation, and that it was taken into consideration when amending the declaration, but the objectionable clause is dealt with in accordance with Article 4(9), adding that it added debts, including loans, within the limits of deductions, including investments that have been deducted the original treatment is to deduct the value of the investment actually paid by the plaintiff, which happens in two ways, and the effect of the two methods will be the same on the calculated zakat base, which is what achieves justice, and the method claimed by the plaintiff will not produce the same base. It asks for a judgment of dismissal. On Wednesday, 05/06/2024, the Circuit held its session remotely to hear the case... National ID No. (...), as agent for the plaintiff by virtue of agency No. (...) Lawyer's license number (...), and attended... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (.../.../.../.../...) When the plaintiff's agent was asked about the lawsuit, he answered in accordance with the regulations previously filed with the General Secretariat of the Zakat, Tax and Customs Committees. When the defendant's representative was confronted with this, he replied that he was adhering to the response previously filed by the General Secretariat of the Zakat, Tax and Customs



Committees. Asked what they would like to add, both parties said no. Therefore, the Court decided to conclude the pleadings and deliberations.

Grounds:



Having reviewed the Zakat Law issued by Royal Decree No. (17/28/577) dated 14/03/1376 AH and its Executive Regulations issued by Minister of Finance Decision No. (2082) dated 01/06/1438 AH and its Adjustment , and having reviewed the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425H and its Adjustment (M/1) dated 15/1/1425 AH and its Adjustment , and its Executive Regulations issued by Minister of Finance Decision No. (1535) dated 11/6/1425 AH and its Adjustment , and after reviewing the working rules of the zakat, tax and customs committees issued by Royal Decree No. (25711) dated 8/4/1445 AH. And relevant laws and regulations.

Procedurally: since the plaintiff aims to cancel the defendant's decision regarding the Zakat assessment for 2021, and since this dispute is considered one of the disputes within the jurisdiction of the Zakat and Tax Adjudication Committee's Circuits

The plaintiff was informed of the result of the objection on 16/01/2024 and submitted the lawsuit through the electronic portal on 15/02/2023, therefore, the lawsuit was submitted within the legally prescribed period according to Article (5) of the Zakat, Tax and Customs Committees Work Rules, and the lawsuit was submitted by a person with standing, which requires the Circuit to accept the lawsuit procedurally.

On the merits, the Circuit examined the papers and documents included in the case file, and the requests and defenses raised by the parties, and found that the dispute lies in the following:

Clause: (Revaluation reserve for available-for-sale investments for 2021, amounting to SAR 178,399,258):

Whereas paragraph (6) of Article (6) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2216) dated 07/07/1440 AH states that it shall be deducted: "The Zakat threshold is calculated by adding the clauses listed in Article (4) of the Regulations, minus the clauses listed in Article (5) of the Regulations, in accordance with the following controls: 6- For Zakat purposes, revaluation results are taken into account according to the fair value shown in the financial statements." guided by the decision of the Appellate Circuit (IR-2021-120) in the appeal issued in Case No. (Z -2018-1687) on "Whereas, with regard to the clause (Investment losses and unrealized gains for 2006), it turns out that the object of the appeal lies in the Taxpayer's request to deduct the losses from the zakat base for the year 2006 because they are actual losses incurred by the company, while the Authority believes that the Taxpayer did not submit any documents proving that the unrealized gains clause is not related to the modified long investments revalued and deducted from the zakat base for the year of the objection. The Circuit examined the subject matter of the dispute regarding investment losses, as the financial statements clarified the existence of such losses, and as the losses of the funds are revaluation losses, the Committee's rejection of them due to the



lack of documents to consider them as actual losses is not sufficient to reject the Taxpayer's objection in light of the financial statements' disclosure of such losses, thus, this Circuit decided to accept his appeal regarding the deduction of the losses. As for the unrealized gains, the Authority's treatment of them by deducting them from the base and reducing the investment balance was not justified from an accounting point of view, as the correct procedure in dealing with investments deducted from the base is to recognize the unrealized gains and deduct the investment after increasing it with these gains, which is why the Circuit decided to accept the Taxpayer's appeal on this clause." whereas the dispute between the parties is about the subjection of the profits of the revaluation of investments to Zakat with the deduction of the investments with the end-of-term balance by the defendant, and where the legal obligation of the plaintiff to pay Zakat after taking into account the results of the revaluation according to the fair value, based on paragraph (6) of Article (6) of the Executive Regulations for Zakat Collection No. (2216) dated 07/07/1440 AH and the above-mentioned appeal decision, after reviewing the defendant's procedure it appears that it added the unrealized profits of the revaluation with the deduction of the investments with the end-of-term balance, which is a proper and acceptable procedure when addressing the impact of the revaluation in the Zakatable base as for the plaintiff's statement that the clause should not be treated as an equity clause because it is related to the investments clause, the clause is classified as an equity clause and should be treated as such, including being added without limiting it by discounting, and the revaluation clause should not be treated like the plaintiff's debts, which concludes that the Circuit rejects the plaintiff's objection and upholds the defendant's procedure for these reasons and after deliberation, the Circuit unanimously decided as follows:

Decision:

Acceptance of the plaintiff's objection/ Company ... Commercial Registration No. (...), appeals the decision of the Defendant/Zakat, Tax and Customs Authority on the formal side and rejects it on the merits. (The ruling has acquired finality over a period of time under Article 33(2) of the Rules of Work of the Customs Committees).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-169269

Case No. Z-2023-169269

Keywords:

Zakat - Adjustments to Net Profit-bad debts- Accepting the Taxpayer's appeal- Accepting the Authority's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority (ZTCA) objected to the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2426), where the Authority's appeal lies on the clause (salary difference for the year 2017) to add the salary expense difference to the net profit, and the clause (foreign purchases difference for the year 2017) to refund the difference between foreign purchases from the Taxpayer's declaration and the foreign purchases mentioned in the customs statement, and the Taxpayer's appeal lies on the clause (bad debts for 2017) because the clause in dispute has met the conditions for deduction. The Appellate Committee found that the Taxpayer provided proof that it met the conditions for the bad debt deduction (a certificate from the legal accountant in addition to the board of directors' decision to confirm that the debt has been written off). Accordingly, the acceptance of the Taxpayer's appeal, and the acceptance of the authority's appeal.

Document:

- Paragraph (1,3) of Article (5) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 12/01/2023 from /... National ID number (...) As an agent for the appellant company under Agency No. (...), and the appeal filed on 15/01/2023 from the Zakat, Tax and Customs Authority (ZTCA), against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in



Jeddah governorateno. (IZJ-2022-2426) issued in Case No. (Z-81678-2021) related to the 2017 Zakat assessment, in the case filed by the Taxpayer against the ZTCA, in which the decision of the Adjudication Circuit ruled as follows:

First: deny the plaintiff's objection to the current liabilities clause.

Second: accepting the plaintiff's objection to the salary difference clause.

Third: deny the plaintiff's objection to the bad debt clause.

Iv: the plaintiff's objection to a labor hire clause was rejected.

V: accepting the plaintiff's objection to the OPT clause.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Dispute Resolution Circuit, the Taxpayer's appeal with regard to the clause (Bad Debts for 2017) is that the clause in dispute has met the conditions for deduction in Article 5(3) of the Zakat Executive Regulations, as the Taxpayer submitted both a signed and sealed certificate from the Chartered Accountant as well as the Board of Directors' resolution to confirm the validity of the company's position. The Taxpayer also objects to the clause (Current Liabilities for 2017) and the clause (Labor Hire for 2017). Therefore, the Taxpayer requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above reasons.

With regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal lies in relation to the clause (Salary Difference for the year 2017) that the Taxpayer did not provide documentary proof of the disputed clause, as the Authority requested the Taxpayer to provide the following during the assessment Ing phase: (An analytical statement of direct and indirect salaries and wages with the name of each Taxpayer and all details, a screenshot for each month in social insurance and for all branches and salaries and wages subject to social insurance), where the Taxpayer submitted the required information and after the examination, the unexplained difference related to salaries was refunded in the amount of (2,143,221) SAR, during the objection stage, he did not provide a justification for the difference and merely stated that these differences "cannot be documented" and provided the statements provided during the examination that were taken into account when refunding the difference, and accordingly, due to the Taxpayer's failure to provide the necessary documentary proof, his objection was rejected. The Authority also answers the reasons for the Circuit's decision as incorrect and contrary to the correct legal requirement; the Authority states that the dispute lies in adding a salary expense difference clause of (2,143, the Authority states that the dispute lies in the addition of a salary expense difference clause in the amount of (2,143,221) riyals to the net result, resulting between the Taxpayer's submission of statements and supporting documents for the disputed clause and the rejection of the difference that is not documented, and the acceptance of the proven documents, and the Authority states that through the Taxpayer's submissions of



defenses and documents to the decision-making circuit, which is a repeat of what he previously submitted, as the decision of the Circuit stated that the clause is accepted in favor of the Taxpayer based on the data submitted, which is not true, as according to the Taxpayer's claim sheet it is impossible for there to be a difference without documentary proof and the Taxpayer stated that while the Authority demands documentary proof of the difference, which the Taxpayer did not provide during the litigation phase, the decision of the Adjudication Circuit accepted all salary expenses without explaining the nature of the difference, which is the subject of the dispute with the Taxpayer, based on paragraph (2) of Article (6) of the Executive Regulations governing the collection of Zakat issued by Ministerial Resolution No. (2082) mentioned above, which confirms that the expenses that the Taxpayer cannot prove their disbursement by supporting documents or other evidence of proof, the Taxpayer failed to provide documentary proof of the payment of salaries and the approved work organization regulation to verify the expenditure, which makes the decision incorrect in its conclusion and must be overturned.

With regard to the clause (difference in foreign purchases for 2017AD), the Authority clarifies that it has refunded the difference between foreign purchases as stated in the Taxpayer's declaration and foreign purchases as stated in the customs statement, after reviewing the documents submitted by the Taxpayer, namely: (An analytical statement of foreign purchases with an explanation of the reasons for the difference between the Zakat declaration and the customs declaration). The Authority clarifies that it refunded the difference in undocumented expenses to net profit because the Taxpayer did not provide justification for this difference or evidence to support its validity as an expense. The Authority responds to the grounds of the Circuit's decision that they are incorrect and contrary to the correct legal requirements, given that the dispute lies in the addition of a difference in foreign purchases amounting to SAR 2,781,303 to the net result, resulting from the amount recorded in the declaration differing from the company's books and its non-compliance with the customs data according to the documents submitted, where the amount recorded in the declaration was compared with the amount in the books according to the Excel statement submitted by the Taxpayer to the Authority, as it reflects the accuracy of the customs declaration. The difference not substantiated by documents was refunded based on Article 6, paragraph 2 of the Executive Regulations governing the collection of Zakat issued by Ministerial Decision No. (2082) on 1/6/1438 AH mentioned above. Furthermore, given the discrepancy between the customs declaration and the Excel statement submitted, as stated in the Authority's appeal, where the customs declaration submitted by the Taxpayer amounted to a total value of SAR (454,383,621), while the company's records show a value of SAR (2,370,315,525), which is higher than the customs declaration. This was relied upon in the Authority's memorandum when comparing it with the declaration. The Taxpayer discussed this discrepancy and submitted statements and documents, some of which were consistent and some of which were inconsistent due to adjustments made during the year. It was difficult for the Taxpayer to explain this difference, stating that it was due to errors in customs clearance and timing, particularly at the end of the month and the end of the year. However, the Taxpayer did not provide documentary evidence of this to the Authority. Based



on the above, it is clear that the Taxpayer claims that the difference amounted to SAR (55,987,520) and provided an analysis of the amount that was not supported by documentary evidence. Furthermore, the dispute with the Taxpayer over the difference added by the Authority lies in the amount of SAR (2,781,303), for which the Taxpayer was unable to provide supporting documents to verify its accuracy. Therefore, the Authority maintains the validity and soundness of its procedure and requests that the decision of the Adjudication Circuit on the clauses subject to appeal be revoked for the reasons presented. On Thursday, 02/01/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision On the merits, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:



upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, 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 means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, regarding the Authority's appeal regarding the clause (Salary Difference for 2017), and where its appeal lies in the fact that after examining the documents submitted by the Taxpayer at the request of the Authority, the unjustified salary difference of (2,143,221) SAR was refunded, and during the objection stage, he did not provide a justification for the difference and provided the statements submitted during the examination, which were taken into account when refunding the difference, and accordingly, due to the failure to provide the necessary documentary proof, his objection was rejected. Where paragraph (1/A) of Article (5) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH states that: "All ordinary and necessary expenses required for the activity shall be deducted whether they are paid or accrued, leading to the net result of the activity, provided that the following controls are met: A- It must be an actual expense supported by documentary evidence or other indications that enable the authority to verify its validity, even if it relates to previous years." Paragraph (3) of Article (20) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH states that: "The burden of proving the validity of what is stated in the Taxpayer's zakat declaration regarding clauses and any other data lies with the Taxpayer. If he is unable to prove the validity of what is stated in his declaration, the authority may refuse to approve the clause that is not proven valid by the Taxpayer or proceed with an estimated assessment according to the authority's perspective in



light of the circumstances and facts related to the case and the information available to it." Based on the above, and since the dispute between the two parties lies in adding the salary difference to the adjusted net profit; and since the authority appeals the division's decision and clarifies that the dispute lies in adding the clause of salary expense difference amounting to (2,143,221) riyals to the net profit, as the difference is represented between what is stated in the declaration and what the Taxpayer submitted in documents and supporting evidence for the disputed clause, the authority rejected the unproven difference, while the Taxpayer argues that the salary clause represents necessary expenses incurred in the ordinary course of business; therefore, it should be recognized as actual expenses. Upon reviewing the documents submitted in the case file, it is clear that the Taxpayer submitted the financial statements for the year in question, where the salaries mentioned in those statements amounted to a total of (334,121) thousand riyals (267,914 thousand riyals + 65,207 thousand riyals as employee costs) in addition to an analytical statement of salaries. Upon reviewing the statement, it became clear that it does not match the financial statements; the total amount in the submitted statement was (257,165,935) riyals. However, the essence of the dispute does not lie in matching the statement submitted by the Taxpayer with the financial statements, but rather in the difference between the salaries registered in the Taxpayer's declaration and the salaries verified in the statement submitted by the Taxpayer to the authority. The authority matched the statement submitted to it by the Taxpayer (included in the authority's appeal statement) with what was stated in the zakat declaration, which resulted in a difference of (2,143,221) riyals (277,573,126 riyals - 257,429,905 riyals). Upon reviewing the statement submitted in the authority's appeal, which the Taxpayer provided to it during the objection phase, it became clear that there were differences amounting to (2,143,221) riyals listed as adjustments (Adjustment), which is the same amount that the authority demands to be proven with documentary evidence. Upon reviewing the documents submitted in the case file, it became clear that the Taxpayer did not provide the supporting documents for his objection regarding the grounds for those differences (adjustments) mentioned in the statement he submitted, and that they indeed represent Adjustment to the salary clause which resulted in that difference. The Taxpayer's claim in his objection before the division that the differences arose due to an error in classifying employee bonuses without any supporting evidence does not affect this, which leads the division to accept the authority's appeal and overturn the decision of the division regarding this clause..

Regarding Authority's appeal regarding the clause (Foreign Purchases Difference for 2017), and where its appeal lies, it refunded the difference between the foreign purchases from the Taxpayer's declaration and the foreign purchases included in the customs declaration, after reviewing the documents submitted by the Taxpayer, where it refunded the difference in the unsupported expense to the net profit because the Taxpayer did not provide the justification for this difference and support its validity as an expense. Where paragraph (3/A) of Article (20) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH states that: "The burden of proving the validity of what is stated in the Taxpayer's zakat declaration regarding clauses and any other data lies with the Taxpayer. If he is unable



to prove the validity of what is stated in his declaration, the authority may refuse to approve the clause that is not proven valid by the Taxpayer or proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, and since the dispute between the parties lies in adding the foreign purchase difference to the adjusted net profit, the Authority appeals against the Circuit's decision and clarifies that the dispute lies in adding the purchase difference clause in the amount of (2,781. 303) riyals to the net profit, 303 riyals to the net profit, as the difference is the result of what is loaded in the declaration with what is in the books according to the Excel spreadsheet provided by the Taxpayer to the Authority as it reflects the reality of the customs declaration, and the difference that is not documented was refunded, while the Taxpayer argues that these differences are due to the timing difference of foreign currencies, based on the above, the imports statement issued by the General Authority of Customs is a basic evidence from a neutral third party, and by reviewing the case file it appears that the Authority action is to adjust the results of the Taxpayer's business due to the differences in the value of the imports and the value of the imports based on the differences in the value of imports included in the Taxpayer's declaration compared to the imports according to the statement submitted by the Taxpayer, which reflects the reality of the customs declaration, and by reviewing the documents submitted in the case file, it appears that the Taxpayer submitted a reconciliation of purchases (attached additional documents - Purchase Reconciliation 2017), and by looking at page (2), (which the Authority considered to reflect the validity and reality of the customs declaration after the Authority accepted all the adjustments attached to the declaration) the total purchases according to the statement submitted by the Taxpayer amounted to (2,370,315,525) SAR, while the Zakat return for the year in dispute included (2,373,096,828) SAR, thus, comparing the statement with the Zakat return; this resulted in differences in the amount of (2,781,302,88) SAR. upon reviewing the documents submitted, it was found that the Taxpayer did not provide any of the documents supporting this difference, as he merely stated that these differences are due to exchange rates, which cannot be verified because there is no evidence to support it, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Dispute Resolution Circuit in this clause.

With regard to the Taxpayer's appeal regarding the bad debts clause for the year 2017AD, the Taxpayer's appeal is that the disputed clause met the conditions for deduction stipulated in Article 5(3) of the Zakat Collection Executive Regulations, as the Taxpayer submitted documents in support of his objection. Where paragraph (3) of Article (5) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH states that: "Bad debts are considered an expense that may be deducted in accordance with the following rules: A- It must have been previously declared among the Taxpayer's Revenues in the year the Revenue is due. B- The bad debts must result from the activity being practiced. C- The Taxpayer must provide a certificate from their legal accountant indicating the write-off of these debts from the books by a decision from the authorized person. D- The debts should not be owed to parties related to the Taxpayer. The Taxpayer's obligation to declare income debts once they are declared."



based on the above, and since the dispute is about the failure of the disputed clause to meet the conditions set forth in the Zakat Regulation for the collection of Zakat, the Authority argues that the certificate submitted by the Taxpayer related to bad debts is invalid because it is not a reasonable confirmation of the write-off of these debts it is clear that the dispute over this clause is based on the documents submitted in the case file, and it is clear that the Taxpayer has provided evidence that it fulfills the conditions for the bad debt deduction, represented by (a certificate from the legal accountant in addition to the board of directors' decision to confirm that the debts have been written off), and this does not affect the Authority's argument this does not detract from the Authority's reference to considering the certificate as a non-confirmation report to prove the validity of the write-off of debts, as a review of the professional standard governing the auditor's report reveals that the text referred to by the Authority, which is part of the requirements of that standard (Standard 4400), which the chartered accountant must comply with when issuing the report; as the certificate submitted has taken into account what must be applied from the standard, as the certificate issued by the chartered accountant is a sufficient confirmation to prove the validity of the written-off debts, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit in this clause

Regarding the Taxpayer's appeal on the remaining clauses in the case. Whereas there is no fault in the court's adoption of the grounds for the contested decision without adding to them, since it deemed that those grounds were sufficient and did not require the addition of any new information, because in upholding it on the grounds set out in those reasons, it confirmed that it did not find in the objections raised against the decision anything that warranted a response beyond what was contained in those reasons. That being the case, and since it has been established that the decision under appeal in the dispute concerning the contested clauses is consistent with the valid reasons on which it is based and sufficient to support its ruling, as the court that issued it examined the substance of the dispute and reached the conclusion set out in its ruling. This court did not find anything that would warrant correction or comment in light of the arguments presented before it. This court therefore rejects the appeal and upholds the decision of the court of first instance in its entirety with regard to the remaining clauses of the claim, based on the reasons given.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/company ..., commercial registration (...), unique number (...), and the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the first circuit regarding violations and disputes of income tax in Jeddah Province with number (IZ)-2022-2426) issued in case number (Z-81678-2021) related to the Zakat assessment for the year 2017AD.

Second: On the Merits:



- 1 - Acceptance of the Authority's appeal and cancellation of the decision of the circuit regarding clause (salary differences for the year 2017).
- 2 - Acceptance of the Authority's appeal and cancellation of the decision of the circuit regarding clause (differences in external purchases for the year 2017).
- 3 - Rejection of the Taxpayer's appeal and upholding the decision of the circuit regarding clause (current liabilities for the year 2017).
- 4 - Acceptance of the Taxpayer's appeal and cancellation of the decision of the circuit regarding clause (bad debts for the year 2017).
- 5 - Rejection of the Taxpayer's appeal and upholding the decision of the circuit regarding clause (hiring labor for the year 2017).



Committee for adjudicating tax violations and disputes
Third Circuit to adjudicate income tax violations and disputes
In Jeddah Governorate

Decision No. IZJ-2024-205354

Case No. Z -2023-205354

Keywords:

Zakat - adjustments to net profit - social insurance expenses - rejection of Taxpayer's objection

Summary:

The Taxpayer's objection to the Zakat assessment for 2017 issued by the Zakat, Tax and Customs Authority (ZTCA) is represented in the clause (External Purchases for 2017) on the Authority's action of adding the external purchases expense in the amount of (15%), the clause (Trade Payables for 2017) that the payables arose as a result of the company practicing its activities and not as a result of obtaining cash amounts and did not use financing for what is considered to be Acquisitionh and did not reach the end of the year (Accrued vacations and accrued tickets for the year 2017), (Accrued expenses for the year 2017), and (Social Insurance for the year 2017), as the Taxpayer objects to the Authority's action of not allowing the deduction of the differences between the amounts in the accounting books and the social insurance certificate. The committee found that the Taxpayer did not provide a reconciliation of the overpaid differences, in addition to failing to prove the payment of the overpaid social insurance expenses for 2017AD, which places the burden of proof on the Taxpayer. Accordingly, the Taxpayer's objection is rejected in all clauses.

Document:

- Article (5) of [The rules of operation of the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\) dated 08/04/1445 AH.](#)
- Article (4/5) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Article (5/1) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Article (6/2) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



- Article (20/3) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:



The facts of this case are summarized as follows: ..., National ID No. (...) In his capacity as the statutory representative of the plaintiff, Inc. Commercial Registration No. (...), under the Memorandum of Association, filed an objection to the 2017 Zakat assessment issued by the Zakat, Tax and Customs Authority, where the plaintiff objects to several clauses: first clause: the plaintiff objects to the defendant's action of not allowing the deduction of the differences between the amounts in the accounting books and the social insurance certificate amounting to 202,181 riyals for the year 2017AD, and demands the deduction of the amounts paid to the Social Insurance Organization based on the provisions of Article 5(1) of the Zakat Executive Regulations, and with regard to the second clause: the plaintiff objects to the defendant's action of adding the expense of foreign purchases in the amount an amount of SAR (18,365) was assessed with a presumed profit margin of 15%. The Plaintiff argued that the company operates in the medical sector and does not engage in traditional import and commercial resale activity. Furthermore, the amount reported in the Zakat return was zero, as the Plaintiff confirmed that there were no foreign purchases during the year under objection. The Plaintiff also asserted that all company expenses were audited by a certified public accountant licensed to practice in the Kingdom of Saudi Arabia, relying on Paragraph (1) of Article (5) of the Executive Regulations for Zakat Collection. Regarding Clause Three: Trade Payables for the year 2017, the Plaintiff objected to the Defendant's action of adding trade payables amounting to SAR (425,369) to the Zakat base for 2017. The Plaintiff clarified that these payables arose from the company's operational activities, were not the result of receiving cash funds or using financing treated as capital assets, and that a full lunar year had not passed over them. Accordingly, the Plaintiff requested their exclusion from the Zakat base. As for Clause Four: Accrued Leave and Accrued Tickets for the year 2017, the Plaintiff objected to the Defendant's inclusion of SAR (1,008,293) and SAR (656,055), respectively, in the Zakat base for that year. The Plaintiff explained that these liabilities arose from the company's regular operations, were not linked to cash inflows or capital financing, and that a full lunar year had not elapsed over them. The Plaintiff therefore requested their exclusion from the Zakat base. With regard to Clause Five: Accrued Expenses for the year 2017, the Plaintiff objected to the Defendant's addition of SAR (1,832,131) in accrued expenses to the Zakat base. The Plaintiff stated that these obligations resulted from operational activity, were not derived from cash receipts or capital-based financing, and had not been held for a complete lunar year. Accordingly, the Plaintiff demanded that these balances not be added to the Zakat base.

When the defendant was presented with the lawsuit, it replied that with regard to the first clause: the defendant replied that it added the difference of the overpaid social insurance expense to the adjusted net profit after recalculation according to the social insurance certificate based on the calculation presented in



the 2017 Reply Memorandum, and the defendant argued that what the plaintiff pointed out was that these expenses were actually paid to social insurance and supported by documents the defendant responded that it recalculated the expense and found that an excess expense was charged over what was calculated according to the payroll statement provided to the defendant by the plaintiff, and the defendant argued that by reviewing the analytical statement of social insurance expenses provided by the plaintiff the plaintiff did not explain the reasons for the differences in the social insurance expenses, nor did it provide details of the salaries of Saudi and non-Saudi employees and limited herself to what was mentioned in the objection memorandum accordingly, the defendant affirms the validity of its procedure based on paragraph (3) of Article (20) and paragraph (4) of Article (6) of the Executive Regulations for Zakat Collection, as the defendant's rejection is based on the plaintiff's inability to provide sufficient documents to explain the difference in the overpayment, and with regard to the second clause: during the meeting with the plaintiff, the plaintiff's representative stated that the company's activity is medical and does not carry out the usual import and resale activity in the commercial form, and the plaintiff was asked about the existence of imports in the amount of (18,365) riyals, and the defendant asked the plaintiff to provide an analytical statement of the amount via email, the defendant requested the plaintiff to provide her with an analytical statement of the amount via e-mail, and the plaintiff's response was limited to submitting an authorization report extracted from the company's account stating that there were no imports, while the report extracted from the defendant's system shows the existence of imports in the amount of (18,365) riyals, and regarding the third clause: in accordance with paragraph (5) of Article (4) of Article (4) of the Zakat Collection Executive Regulations, and during the defendant's meeting with the plaintiff, the defendant explained to the plaintiff's representative her treatment of the calculation method and that according to the submitted movement, it is clear that the year 2017 has turned around on the amounts added to the Zakat base amounting to (425,369) riyals, 369 riyals, and that according to the analysis shown in the excerpted image included in the defendant's reply memorandum, it is clear which accounts have turned around and should be added to the Zakat base, and with regard to the fourth clause: accrued vacations and accrued tickets for the year 2017AD, it added the credits for both (accrued vacations and accrued tickets) in the amount of (1,008,293) riyals and (656,055) riyals respectively to the Zakat base for the year 2017AD, 055) riyals respectively to the Zakat base for the year 2017AD, which represents what has passed according to the movement provided by the plaintiff and reconciled with the financial statements, based on paragraph (5) of Article (4) of the Executive Regulations for Zakat Collection, and during the defendant's meeting with the plaintiff, the defendant explained her treatment to the plaintiff's representative the defendant explained to the plaintiff's representative how the calculation was done and that according to the movement presented, it is clear that the amounts added to the Zakat base have been converted, and that according to the analysis shown in the excerpted image included in the defendant's reply note, it is clear which accounts have been converted and should be added to the Zakat base, and with regard to the fifth clause: in accordance with paragraph (5) of Article (4) of the Executive Regulations for Zakat Collection, and during the defendant's meeting with the



plaintiff, the defendant explained her treatment to the plaintiff's representative on how to calculate and that according to the submitted movement, it is clear that the amounts added to the Zakat base amounting to (1.832,131) riyals have been converted to Zakat, 832,131 SAR, and that according to the analysis shown in the excerpted image included in the defendant's reply memorandum, it is clear which accounts have turned around and should be added to the Zakat base.

On Sunday, corresponding to: 28/01/2024 AD, the session was opened via videoconferencing in accordance with the remote videoconferencing procedures; based on the provisions of Article 15, Clause 1 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 08/04/1445 A.H.; the plaintiff's representative attended ... National ID number:(...) Under power of attorney No. (...), and attended ... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under the authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No.:(...) Date: 11/05/1444 AH. Asked what they would like to add, both parties were satisfied with what they had previously submitted. The Circuit decided to adjourn the hearing to deliberate.

Grounds:



Having reviewed the Zakat Law issued by Royal Decree No. (17/28/577) dated 14/03/1376 AH and its Executive Regulations issued by Minister of Finance Decision No. (2082) dated 01/06/1438 AH and its Adjustment, and having reviewed the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425 AH and its Adjustment (M/1) dated 15/1/1425H and its Adjustment, and its Executive Regulations issued by Minister of Finance Decision No. (1535) dated 11/6/1425 AH and its Adjustment, and after reviewing the working rules of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH. And relevant laws and regulations.

Procedurally, since the plaintiff aims to cancel the decision of the Zakat, Tax and Customs Authority regarding the Zakat assessment for 2017AD, and since this dispute is one of the disputes within the jurisdiction of the Zakat, Tax and Customs Adjudication Committee Circuits under the Zakat, Tax and Customs Committees work rules, and since the plaintiff was informed of the result of the objection on 17/08/2023, and it submitted the case through the electronic portal on 07/09/2023 was informed, therefore, the lawsuit was submitted within the legally prescribed period in accordance with Article (5) of the Zakat, Tax and Customs Committees' working rules, and the lawsuit was submitted by a person with standing, which requires the Circuit to accept the lawsuit procedurally.

On the merits, the Circuit examined the papers and documents included in the case file, and the requests, defenses, and arguments of the parties, and found that the dispute lies in the defendant's issuance of the Zakat assessment for 2017AD, where the plaintiff objects to several clauses:



First clause: the plaintiff objects to the defendant's action of not allowing the deduction of the differences between the amounts in the accounting books and the social insurance certificate, which amounted to (202.181 SAR) for the year 2017AD , while the defendant argued that it added the difference of the overpaid social insurance expenses to the adjusted net profit after recalculation according to the social insurance certificate based on the calculation presented in the reply memorandum for the year 2017AD, and the defendant argued that what the plaintiff indicated was that these expenses were actually paid to the social insurance the defendant replied that it had recalculated the expense and found that the expense was charged in excess of what was calculated according to the salary statement provided to the defendant by the plaintiff, and based on the provisions of paragraph (1) of Article (5) regarding the expenses that may be deducted from the Executive Regulations for Zakat Collection issued by Ministerial Decision (2082) dated 1/6/1438 AH: "All ordinary and necessary expenses required for the activity shall be deducted whether they are paid or accrued, leading to the net result of the activity, provided that the following controls are met: A- It must be an actual expense supported by documentary evidence or other indications that enable the authority to verify its validity, even if related to previous years. B- It must be related to the activity and not related to personal expenses or other activities. In the event that an expense of a capital nature is included in the expenses, the result of the activity shall be adjusted and the fixed assets shall be included and amortized according to the statutory rates." Based on the provisions of paragraph (2) of Article (6) regarding the expenses that may not be deducted from the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution (2082) dated 1/6/1438 AH: "Expenses for which the Taxpayer is unable to prove their expenditure by supporting documents or other evidence" based on the provisions of paragraph (4) of Article (6) concerning the expenses that may not be deducted from the Executive Regulations for Zakat Collection issued by Ministerial Decision (2082) dated 1/6/1438 AH: ("The employee's share in regular retirement funds such as pension funds, social insurance, or savings funds") based on paragraph (3) of Article (20) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH: ("The burden of proving the validity of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the validity of the clauses in his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it.") Based on the foregoing and by reviewing the documents submitted, it is clear that the plaintiff only provided copies of the social insurance certificate in addition to an extract from the social insurance for the amounts paid without submitting the bank disbursement documents for the year in dispute upon reviewing the documents submitted by the plaintiff, it turns out that the social insurance extract shows the amounts paid during the year in dispute, and by recalculating the extract, it turns out that it does not correspond to what is stated in the social insurance certificate, and the plaintiff did not provide a settlement for these differences and was unable to provide bank disbursement documents proving that it paid the social insurance expense mentioned in her



declaration in the amount of (202,181 SAR since the plaintiff did not submit a settlement of the overpaid differences in addition to her inability to prove the payment of the overpaid social insurance expenses for 2017AD, the burden of proof falls on the plaintiff, which leads the Circuit to reject the plaintiff's objection to the social insurance clause for 2017AD.

Regarding Clause Two: Foreign Purchases for the year 2017AD, the Plaintiff objected to the Defendant's action of adding foreign purchase expenses amounting to SAR (18,365) and applying a deemed profit margin of 15%. The Plaintiff argued that the company operates in the medical sector and does not engage in conventional import and resale activities. Furthermore, the Zakat return recorded zero for foreign purchases, with the Plaintiff confirming that no such purchases were made during the disputed year. The Plaintiff also contended that all company expenses were audited by a certified public accountant licensed in the Kingdom of Saudi Arabia. On the other hand, the Defendant argued that it compared the Plaintiff's declaration (showing zero foreign purchases) with the customs report (internally requested from the Customs Authority), which recorded imports worth SAR (18,365). The Defendant applied a 15% profit margin to this discrepancy, resulting in SAR (2,754). The Plaintiff was questioned about the existence of imports amounting to SAR (18,365) and was requested via email to provide a detailed breakdown of the amount. The Plaintiff responded only by submitting a clearance report from the company account indicating no imports, while the Defendant's system-generated report showed imports amounting to SAR (18,365). The Defendant relied on Paragraph (1) of Article (5) of the Implementing Regulations for Zakat Collection (Ministerial Resolution No. 2082, dated 1/6/1438 AH), which stipulates that all ordinary and necessary business expenses may be deducted, provided they: a) are actual expenses supported by documentary evidence or other indications sufficient for the Authority to verify their validity (even if related to prior years); b) are related to business activities and not to personal or unrelated activities; c) are not capital in nature. If a capital-type expense is included, it must be adjusted, added to fixed assets, and depreciated according to prescribed rates. The Defendant also invoked Paragraph (3) of Article (20) of the same Regulations, which states: "The burden of proving the accuracy of the clauses and other data listed in the Zakat declaration lies with the Taxpayer. If the Taxpayer fails to prove the accuracy of such information, the Authority may reject unverified clauses or make a discretionary assessment based on available circumstances, facts, and information." In light of the above, and given that the import data issued by the General Authority of Customs is considered reliable third-party evidence, and since the Defendant's adjustment was based on a discrepancy between the declared and actual imports (as confirmed by the Customs report), it was found that the Plaintiff submitted only a clearance summary for VAT covering the period from 01/01/2017 to 23/08/2022, which merely indicated no imports. The Plaintiff did not submit a proper reconciliation or justification for the SAR (18,365) import discrepancy nor provide supporting documents for the claims made in its Statement of Claim. Accordingly, the panel finds that the Defendant



acted correctly in adjusting the Plaintiff's reported business results based on these discrepancies and therefore recommends rejecting the Plaintiff's objection regarding the 2017AD foreign purchases clause.

Regarding the third clause: the plaintiff objects to the defendant's action of adding the balances of trade payables in the amount of (425,369) riyals to the Zakat base for the year 2017AD, as it explained that the payables arose as a result of the company practicing its activities and did not arise as a result of obtaining cash amounts and did not use financing for what is intended for Acquisition and did not come due, while the defendant argued that it added (425. 369) riyals, which represents the amount that has come due according to the movement provided by the plaintiff and reconciliation with the financial statements, 369,425 riyals, which represents what has come due according to the movement provided by the plaintiff and reconciled with the financial statements, and based on the provisions of paragraph (1) clause (5) of Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution (2082) dated 1/6/1438 AH, which stipulates that ("The Zakat threshold for Taxpayers who keep regular books and records shall be calculated as follows: First: The zakat base consists of all the funds of the Taxpayer subject to zakat, including: 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What was used in trade offers and has passed a year on it." based on the provisions of paragraph (3) of Article (20) of the Executive Regulations for Zakat Collection issued by Ministerial Decision (2082) dated 1/6/1438 AH, which stipulates that ("The burden of proving the correctness of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the correctness of the clauses in his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it.") Based on the above, and where trade payables are considered a component of the Zakat base provided they are turned over or used to finance assets deducted from the base based on the documents submitted, it appears that the plaintiff did not provide the detailed movement supporting her view that the credit balances have not matured, and because there is no detailed movement of these balances showing that the balances of the first period were paid during the year, the procedure to be taken is to add the balances that have matured, and looking at the details of the detailed movement included in the defendant's reply note, which is the movement of trade payables that have matured in the amount of (425,369) riyals for the year 2017ad, which leads the Circuit to reject the plaintiff's objection to the trade payables clause for the year 2017AD.

Regarding the fourth clause: the plaintiff objects to the defendant's action of adding the balances of (accrued vacations and accrued tickets) in the amount of (1,008,293) riyals and (656,055) riyals, respectively, to the Zakat base for the year 2017AD, respectively to the Zakat base for the year 2017AD, while the defendant argued that it added the credit balances for both (accrued vacations and accrued tickets) because it



represents what has come due according to the movement provided by the plaintiff and reconciled with the financial statements, and based on the provisions of paragraph (1) clause (5) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution (2082) dated 1/6/1438 AH, which stipulates that: ("The Zakat threshold for Taxpayers who keep regular books and records shall be calculated as follows: First: The zakat base consists of all the funds of the Taxpayer subject to zakat, including: 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What has been used in trade offers and has passed the hawl."Based on the provisions of paragraph (3) of Article (20) of the Executive Regulations for Zakat Collection issued by Ministerial Decision (2082) dated 1/6/1438 AH, which stipulates that("The burden of proving the correctness of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the correctness of the clauses in his declaration, the Authority may not authorize the clause whose correctness is not proven by the Taxpayer or make an discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it.") Based on the above, as credit balances (accrued vacations, accrued tickets) are considered as one of the components of the Zakat base, regardless of their type or type regardless of their type, source, or classification, provided that they are subject to the condition of turning over or being used to finance the assets deducted from the Zakat base without requiring turning over, and upon reviewing the documents submitted, it appears that the plaintiff provided details of the movement of the accounts (accrued vacations and accrued tickets) where it is clear that the balances do not match the corresponding lists in total and these accounts are not separated, which makes it difficult to verify the validity of the plaintiff's claim that these balances do not turn over upon reviewing the movement of the accounts provided by the plaintiff to the defendant and contained in the defendant's reply memorandum, which is represented by the movement of the accounts (accrued vacations and accrued tickets) that have turned over in the amount of (1,008,293) SAR and (656,055) SAR for the year 2017AD, which shows that the balances of the first period have been paid during the year, the procedure to be taken is to add the balances that have turned over, and the Circuit believes that the plaintiff's objection to the clause accrued vacations and accrued tickets for the year 2017 should be rejected.

Regarding the fifth clause: the plaintiff objects to the defendant's action of adding the accrued expenses in the amount of (1,832,131) riyals to the Zakat base for the year 2017AD, as it explained that the accrued expenses arose as a result of the company's activities and did not arise as a result of obtaining cash and did not use financing for what is intended for Acquisition and did not come due, while the defendant argued that it added (1,832,131) riyals, which represents the amount that has come due according to the movement submitted by the plaintiff and reconciled with the financial statements, as it explained her treatment to the plaintiff's representative on how to calculate and that according to the movement submitted, which



represents the amount that has turned around according to the movement submitted by the plaintiff and reconciled with the financial statements, where it explained her treatment to the plaintiff's representative on how to calculate and that according to the movement submitted, it is clear that the amounts added to the Zakat base amounting to (1,832,131) riyals have turned around, and that according to the analysis shown in the excerpted image included in the defendant's reply memorandum, it is clear which accounts have turned around and should be added to the Zakat base, and based on the provisions of paragraph (I) clause (5) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution (2082) dated 1/6/1438 AH which stipulates that:("The Zakat threshold for Taxpayers who keep regular books and records shall be calculated as follows: First: The zakat base consists of all the funds of the Taxpayer subject to zakat, including: 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade offers and has passed the hawl. "Based on the provisions of paragraph (3) of Article (20) of the Executive Regulations for Zakat Collection issued by Ministerial Decision (2082) dated 1/6/1438 AH, which stipulates that("The burden of proving the validity of the clauses and any other data contained in the Taxpayer's declaration is on the Taxpayer, and in case he is unable to prove the validity of the clauses in his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it based on the above, the accrued expenses are one of the components of the Zakat base provided that they are turned around or used to finance the assets deducted from the Zakat base, and a review of the documents submitted shows that the plaintiff submitted the detailed movement of the accrued expenses, which shows the turnover of these balances in the amount of (1,832,131) SAR , which leads the Circuit to reject the plaintiff's objection to the accrued expenses clause for 2017AD.

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

Decision:

- 1- The plaintiff's objection to the social insurance clause for the year 2017 is rejected.
- 2- The plaintiff's objection to the foreign purchases clause for the year 2017 is rejected.
- 3- The plaintiff's objection to the commercial accounts payable clause for the year 2017 is rejected.
- 4- The plaintiff's objection to the clause of due vacations and tickets for the year 2017 was rejected.
- 5- The plaintiff's objection to the clause of due expenses for the year 2017 was 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.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2023-143268

Case No. ZW-2022-143268

Keywords:

Zakat-Adjustments to Net Profit-Life Insurance-Acceptance of Taxpayer's Appeal

Summary:

The Taxpayer's objection to the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-1134), where his appeal lies on (not reducing the adjusted profit by the profit distributed from the year's profit for the years 2016 to 2018), (loans and the like) for financing the purchase orders of goods according to a tripartite agreement between the company, the bank and the supplier, and the term of these loans is only (105) days and has been repaid in full, and (not deducting the allocations for the years 2017 and 2018 from the net book profit of the partners) (Provisions for 2017 and 2018 from the net book profit of the partners) to claim that the user balances of the provisions should be deducted from the net book profit of the company , and (life insurance expenses) to argue that they are actual expenses incurred by the company during the mentioned years, and are actual and necessary expenses for the continuation of the activity. The Appellate Committee found that Zakat is not obligatory on money that has left the Taxpayer's possession, which results in the Taxpayer's entitlement to deduct the life insurance expense for the years in dispute. The Authority did not dispute the validity of the expense, and it is established by law that all ordinary and necessary expenses may be deducted to achieve taxable income. The Taxpayer's appeal is accepted and the decision of the Adjudication Circuit for (life insurance expense) , (not reducing the profit adjusted by the distributed profit from the year's profit), and (loans and the like) is overturned , and the Taxpayer's appeal is rejected and the decision of the Adjudication Circuit for (not deducting provisions) is upheld.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)



- Paragraph (9) of Article (4.1) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Article (20/3) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Article (5) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:



The appeal was heard on: 2022/09/01, from (...), National ID No. (...), as agent for the appellant company by virtue of agency No. (...), and the appeal filed on: the Zakat, Tax and Customs Authority (ZTCA), on the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-1134) issued in Case No. (ZW-37852-2021) regarding the Zakat assessment for the years 2016 to 2018AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: The Taxpayer's claim was filed by the Taxpayer against the Zakat, Tax and Customs Authority:

First: accepting the lawsuit filed by the plaintiff/company ..., commercial registration number (...), against the defendant/Zakat, Tax and Customs Authority.

Secondly: On the Merits:

- 1- Recognize the end of the dispute regarding the capital losses for 2016, from the clause (Depreciation difference for 2016/2018).
- 2- Recognizing the end of the dispute regarding the withholding tax and late penalty, from the clause (Statutory Expenses for the years 2016 to 2018).
3. Reject them for the remaining clauses.

Since this decision was not accepted by the appellant (...) The Taxpayer appealed to cancel the decision of the Adjudication Circuit regarding this clause on the basis that the company followed the depreciation method stipulated in Article (17) of the Tax Law, in line with the Authority's Circular No. (2574) dated 14/5/1426 AH, which clarified the procedural provisions and accounting rules contained in the Tax Law the Taxpayer has complied with the system as explained above, as the said circular was followed by Zakat Taxpayers when submitting their returns for the years under dispute, therefore, it is not permissible to charge the Taxpayer now for a depreciation method that was not available when submitting the return and is not responsible for these changes, on the contrary, the capital losses for 2016 were recognized in the amount of (92.772) riyals SAR, which put the company in confusion regarding the depreciation method followed by the Authority, noting that capital gains losses are related to the application of the depreciation



method contained in Article (17) of the Tax Law, so the Taxpayer demands that the net profit be adjusted with the depreciation differences according to the company's calculation when issuing the amended assessment for the years 2016 and 2018.

With regard to the clause (Guarantee fees due for 2016 as a provision and the clause used from the provision for doubtful debts for the years 2016, 2017 and 2018), the Taxpayer requests the annulment of the decision of the Adjudication Circuit regarding this clause on the grounds that the accrued guarantee fees are an accrued expense, and what is confirmed by the tabulation in the financial statements approved by a certified auditor within the Kingdom, in addition to the fact that the accrued expenses are confirmed liabilities and not probable, so the guarantee fees cannot be considered as a provision the plaintiff relied on the provisions of the Zakat Collection Law issued in 1370 AH and Sharia Fatwa No. (2305). He added that the company executed these debts based on a study and follow-up procedures to try to collect them, and when it was determined that it was impossible to collect these debts, the Audit Committee conducted a study to confirm this and the decision was taken, and the doubtful debts were certified by a certified public accountant in the Kingdom who issued the company's financial statements.

With regard to the clause (failure to deduct the provisions for 2017 and 2018 from the net book profit of the partners), the Taxpayer requests that the decision of the Adjudication Circuit regarding this clause be canceled on the grounds that the Authority did not deduct the user from the provisions amounting to (35,939,737) riyals for 2017 and (25,101,468) riyals for 2017 and 2018AD, in accordance with the statutory instructions that the Zakat base must not be less than, and the Taxpayer demands that the balances of the user of provisions be deducted from the net book profit of the company, given the statutory instructions that require that the Zakat base should not be less than the profits of the year, it is more appropriate when applying this rule to deduct the user of provisions from the profit of the year instead of deducting from the Zakat base from the balance of the first period. Regarding the clause (statutory expenses for the years 2016 to 2018), the Taxpayer argued that the expenses are actual expenses incurred by the company during the mentioned years, and they are actual and necessary expenses for the continuation of the activity, so the Taxpayer demands the deduction of the disputed expenses for the years 2016AD to 2018AD.

The Taxpayer argued that the company's objection in this clause includes its objection to not reducing the net profit adjusted by the distributed profit from the year's profit for the years 2016 to 2018AD, as well as its objection to not considering these distributions when calculating the Zakat base in excess of the profit retained at the beginning of the year, in accordance with the conditions for the obligation of Zakat the Taxpayer also objected to the failure to consider these distributions when calculating the Zakat base in excess of the retained earnings at the beginning of the year, as one of the conditions for the obligation of Zakat is that the money must be the property of the company, and by full ownership is meant that the company has full possession that enables it to dispose of the money, which is not the case, as the dividends are amounts that came out of the profit of the year for the years 2016AD through 2018AD dividends are



amounts that came out of the company's liability and were deposited to shareholders according to the dividend distribution resolutions issued by the board of directors, and among the legal conditions for the obligation of zakat is that the money must have passed (12) months to be subject to zakat, which is also not the case, since the company distributed the dividends before the turn of the year this is also not the case, as the company distributed the dividends before the turn of the year and it is not permissible to zakat them, as the instructions of the true Sharia emphasized that it is not permissible to zakat the money that has left the Taxpayer's liability, and from the legal point of view, zakat has its rules that must be applied when calculating the zakat base, and anything that violates these rules is not considered, and whereas the Authority's acceptance of the deduction of dividends only within the limits of the balance of retained earnings at the beginning of the year, and its failure to accept the deduction of distributions in excess of the balance of retained earnings at the beginning of the year represents a contradiction in the Zakat treatment of the same transaction, as the acceptance of the deduction of dividends within the limits of the balance of retained earnings has a clear reason, namely the payment of dividend funds to shareholders and the decrease in invested funds with these distributions that went from the company's liability to its shareholders during the year, this applies fully to actual distributions in excess of the balance of retained earnings that result in a decrease in funds invested in the company, therefore it is not possible therefore, the source of the distributions can only be the profits realized during the year, and therefore the distributions must be fully deducted, in addition to the fact that the executive regulations for the collection of zakat did not include an explicit provision to accept the deduction of profits in excess of the balance of retained profits at the beginning of the year, whether from the adjusted net profit or consequently from the zakat base, does not mean that the basis for such a procedure is not valid, as interim distributions are a new method in dividends and contrary to the custom of companies to distribute profits after the financial statements are issued, but it is not contrary and not different in nature from retained profits balance at the beginning of the period.

Regarding the clause "Refusal to deduct fixed asset additions that were financed from the profit of the year for the years 2016 to 2018", where the Taxpayer paid the profits of the year were used to finance the additions to the canal offerings, as the additions to these long-term assets during the year would not have been financed from the profits realized during the year that did not fall due, and the company relies in its treatment on Fatwa No. (23408) issued on 18/11/1426 AH, which stipulated in the answer to the fourth question as follows:" as for what the Authority stated in its reply note that the company and its chartered accountant have acknowledged in the company's financial statements that the entire adjusted profit is subject to Zakat, relying on the company's financial statements for 2018AD, the Taxpayer points out that the Authority failed to mention that the company and its chartered accountant have stated in paragraph (14-2) of the same note that the adjusted net profit has been deducted from it in excess of the balance of the retained earnings at the beginning of the year²⁾ of the same clarification that the adjusted net profit was deducted from it the dividends distributed in excess of the balance of retained earnings at the beginning of the year, and therefore, the Authority's claim is incorrect as the company did not in any way acknowledge



that the adjusted profits are fully subject to Zakat. With respect to the clause "Non-deduction of amortization of deferred Revenue for 2016", the Taxpayer appeals the decision of the Adjudication Circuit regarding this clause on the basis that there is no statutory basis for refusing to deduct the amortization of deferred Revenue for 2016 from the adjusted net profit. With regard to the clause "Adding credit balances to the Zakat base for the years 2016 and 2017", the Taxpayer appeals the decision of the Adjudication Circuit regarding this clause on the basis that these amounts are not considered loans and should not be subject to Zakat, and if they are not financed with cannabis offers, the company based its opinion on a number of fatwas stating that Zakat is obligatory on the lender and not the borrower.

The Taxpayer argued that these temporarily paid expenses are long-term capital expenditures, which are required to be deducted by the Zakat Executive Regulations, and that these expenses have been paid in full and are no longer part of the company's liability, so they should be deducted. Regarding the clause (Disallowing the deduction of the adjustments to the carry-forward profits for the year 2017), the Taxpayer appeals the decision of the Adjudication Circuit, noting that the adjustments to the balance of carry-forward profits for the year 2017 amounted to SAR (608,581), representing the adjustments in other comprehensive income resulting from the reversal of severance pay resulting from the application of IFRS 9 in the amount of SAR (3,610,220). With regard to the clause (Loans and similar clauses), the Taxpayer appeals the decision of the Adjudication Circuit regarding this clause on the basis that the loans consist of financing orders for the purchase of goods according to a tripartite agreement between the company, the bank and the supplier and the term of these loans is (105) days only and was fully repaid on the maturity dates during 2018AD, and this was clarified in the audited financial statements for the year it is fully related to the operational activities of the company, as it was used to purchase inventory and not long-term assets, and that the loan was fully repaid during the year and did not fall due, as shown in the financial statements for the year ended December 31, 2018AD, where it appears that the loan (financing) was the only loan outstanding at the beginning of 2018AD, with a balance of (84,153,000 SAR (shown in Note (9) under the name "Purchase Order Financing Tawarruq Facility" with a balance of (84,153,000) SAR on 12/31/2017 (the first of the year 2018) and there is no balance on 12/31/2018 as it was fully repaid during 2018AD, and the Authority claims in its reply note and what the company provided is an analytical statement showing the first year balance of (84,153,000), the Authority neglected to mention that the company provided (15) Arab National Bank account statements supporting all the transactions shown in the analytical statement, each transaction in the analytical statement represents financing for a specific purchase order with a reference number, and the Arab National Bank account statements show the payment of these financing amounts indicating the unique reference number, leaving no doubt that the financing balance shown at the beginning of the year 2018 has been fully repaid the Taxpayer submitted in the appeal memorandum the tripartite agreement between the company, the bank and the supplier as requested, so if the balance of this financing is "zero" at the end of 2018 as explained above (which in itself is conclusive evidence that this financing has not come due), and if the company has submitted the documents conclusively indicating that the first year's balance



of (84,153,000) SAR in full in 2018 as a specific repayment of this particular balance and with reference numbers for each purchase order financed.

The Taxpayer appeals the decision of the Dissolution Circuit and demands that Zakat be calculated on the net Zakat base and not on the adjusted profit, as the basis for calculating the Zakat base and determining the amount due requires the existence of the Zakatable amount in the company's possession at the end of Hulul, and since the calculation of the net base requires excluding the amounts that have left the company's possession to reach the Zakat estimate without considering the amount of the adjusted profit, which does not necessarily reflect the existence of the Zakatable amount in the company's possession, and since the calculation of the net base requires excluding the amounts that have left the company's possession to reach the Zakat estimate the main objective of the company is to deduct the dividends and additions of fixed assets that were financed from the profit of the year and used from the provisions for those deductions that went out of its liability in accordance with the legal rules for the obligation of Zakat, in case you decide not to accept the company's request to calculate Zakat on the adjusted net profits, which does not necessarily reflect the presence of the money that is due for Zakat.

The Zakat, Tax and Customs Authority submitted a list of appeals, which was reviewed by the Circuit, which included the Authority's appeal regarding the clause "Proving the end of the dispute regarding the withholding tax and delay penalty from the regular expenses clause for the years 2016AD to 2018AD." The Authority appeals the decision of the Adjudication Circuit, and emphasizes the incorrectness of the conclusion reached by the Circuit issuing the decision, as the Authority did not accept the plaintiff's point of view regarding the clause under appeal in any way, nor did it request the Circuit issuing the decision to rule that the dispute had ended the Authority did not accept the plaintiff's point of view regarding the clause under appeal in any way, nor did it ask the decision-making circuit to rule that the dispute has ended. In fact, the Authority explicitly emphasized the incorrectness and illegality of the plaintiff's request to deduct (withholding tax) from the base, and explicitly clarified that withholding tax expenses are not considered a permissible expense the Authority also points out that what the Circuit relied on in ruling to end the dispute is in fact related to the Authority's acceptance of the plaintiff's viewpoint on the (withholding tax and delay penalty) clause, and has nothing to do with the (statutory expenses) clause, which are two separate clauses, each with its own subject matter, grounds, and requests, and cannot be combined therefore, it is clear that the Circuit's reliance on the acceptance of the Authority's Reply Memorandum is misplaced and that the issuing Circuit did not address this clause and did not adjudicate it in accordance with the statutory requirements, which makes its decision to end the dispute in the clause (Statutory Expenses "Withholding Tax") legally invalid and should be annulled without any doubt.

On Thursday, December 21, 2023, 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 conferencing in accordance with the procedures for remote video litigation; based on the provisions of Article 15, Clause



No. 2 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. 26040 and dated:21/4/1441 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 reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, 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 means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, with regard to the Taxpayer's appeal on the clause (not deducting the allocations for 2017 and 2018 from the net book profit of the partners), with regard to the appeal on (35,633,835) riyals and (25,101,468) riyals, and where Article (70) of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement occurs before the case is recorded, it is necessary to document the content of the case and the response before recording the agreement, provided that the original case is within the jurisdiction of the circuit, even if the content of the agreement is within the jurisdiction of another court or circuit, provided that the subject of the case or part of it is among what has been agreed upon," and based on the above, and since this circuit has confirmed the end of the dispute between the two parties according to what was stated in the letter issued by the authority in the supplementary memorandum stating that "the authority informs your esteemed circuit after studying the submitted documents that it partially accepts the Taxpayer's objection..." therefore, the Circuit must prove the end of the dispute with respect to the appeal of SAR 35,633,835 and SAR 25,101,468. As for the amount of SAR (305,902), the Taxpayer demands that the decision of the Adjudication Circuit regarding this clause be canceled on the grounds that the Authority did not deduct the user from the provisions amounting to SAR (35,939,737) for the year 2017 and SAR (25,101,468) for the year 2017 and 2018AD,468) SAR for 2017 and 2018AD, and the Taxpayer demands that the balances of the user of provisions be deducted from the net book profit of the company, given the statutory instructions that require that the Zakat base should not be less than the profits of the year, it is more appropriate when applying this rule to deduct the user of provisions from the profit of the year instead of deducting from the Zakat base from the balance of the first period. Based on paragraph (9) of clause (First) of Article (4) of the executive regulation for the collection of zakat issued by Minister of Finance



Decision No. (2082) dated 01/06/1438 AH, which stated: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 9- Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting the user thereof during the year." Based on the above, and since the Circuit found that the Taxpayer did not submit the documents supporting the write-off, the Circuit must reject the appeal and uphold the decision of the Adjudication Circuit with regard to the amount of SR 305,902.

Regarding the Taxpayer's appeal on the clause (life insurance expenses), the Taxpayer argued that the expenses are actual expenses incurred by the company during the mentioned years, and they are actual and necessary expenses for the continuation of the activity, so the Taxpayer demands the deduction of the disputed expenses for the years 2016AD to 2018AD. Based on paragraph (3) of Article (20) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, which stipulates that "The burden of proving the authenticity of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case he is unable to prove the authenticity of the clauses contained in his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." Based on paragraph (a) of Article 5 (1) of the same regulation, which stipulates that: "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" it must be an actual expense supported by supporting documents or other evidence that enables the Authority to ascertain its authenticity, even if it relates to previous years." Based on the above, and since Zakat is not obligatory on money that has left the Taxpayer's possession, it follows that the Taxpayer is entitled to deduct the life insurance expense for the years in dispute. Whereas the Authority did not dispute the validity of the expense, and whereas it is established by law that all ordinary and necessary expenses may be deducted for the realization of taxable income, provided that they are supported by supporting documents and are related to the realization of taxable income, and whereas the determination of expenses related to the realization of taxable income - unless it is stipulated that it is not deductible or by specifying special controls for it - requires consideration of the current custom to consider these expenses as related to the realization of income or not, and whereas it is customary for companies to compete to provide insurance benefits of all kinds as for the Zakat aspect related to this clause, where it has been proven that the Taxpayer spent the disputed money, and since the principle is that Zakat is not obligatory on money that has left the Taxpayer's possession, which results in the Taxpayer's right to deduct the life insurance expenses for the years in dispute, and where the Authority's opinion is not based on a legal or statutory basis that can be relied upon in connection with this clause it also does not affect the basis of the decision of the adjudication in Article (5) of the Executive Regulation of the Zakat Collection Law issued in 1438 AH, as it was issued later than the years in dispute, so the provisions of the regulation are only applicable to what falls on the date of its enactment in accordance with the principle of non-retroactivity of laws, the provisions of the regulation apply only to what falls on the date of



its entry into force, and its effects do not apply to what occurred before it, in accordance with the principle of non-retroactivity of laws, and the Circuit must accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding the clause (life insurance expense).

Regarding the Taxpayer's appeal on the clause (Not to reduce the adjusted dividend by the profit distributed from the year's profit for the years 2016 to 2018), with respect to the appeal on the following amounts 258,112,000 riyals, 366,228,058 riyals and 388,069,000 riyals, and whereas Article (70) of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement occurs before the case is recorded, it is necessary to document the content of the case and the response before recording the agreement, provided that the original case is within the jurisdiction of the circuit, even if the content of the agreement is within the jurisdiction of another court or circuit, provided that the subject of the case or part of it is among what has been agreed upon," and based on the above, and since this circuit has confirmed the end of the dispute between the two parties according to what was stated in the letter issued by the authority in the supplementary memorandum stating that "the authority informs your esteemed circuit after studying the submitted documents that it partially accepts the Taxpayer's objection..." "Therefore, it is necessary for the circuit to document the end of the dispute regarding the appeal on the following amounts:" 258,112,000 Riyals and 366,228,058 Riyals and 388,069,000 Riyals. As for the following amounts: 380,888,000 Riyals and 380,771,942 Riyals and 501,431,000 Riyals, based on paragraph (8) of clause (First) of Article (Fourth) of the executive regulations for collecting zakat issued by the Minister of Finance's decision No. (2082) dated 01/06/1438 AH, which stated the following: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8- The balance of retained earnings from previous years at the end of the year," and based on the above, and upon reviewing the case file where the authority argued that the adjusted profit cannot be reduced as it is considered a return on capital, which is an element of the zakat base, the circuit sees that these distributions occurred during the year in phased periods (quarterly), resulting in a deficit in the retained earnings balance, which is a result of the company's method of distributing profits, and since there is legal evidence to determine the necessity of imposing zakat on wealth that the Taxpayer no longer owns after transferring it to others before the year has passed on it, it is necessary for the circuit to accept the appeal and cancel the decision of the circuit regarding the following amounts:" 380,888,000 Riyals and 380,771,942 Riyals and 501,431,000 Riyals, and the full deduction of the profit distributions that occurred during the year from the zakat base without limiting it to the opening balance of the zakat base.

With regard to the Taxpayer's appeal on the clause (Loans and the like for the year 2018), the Taxpayer appeals the decision of the Adjudication Circuit regarding this clause on the basis that the loans consist of



financing orders for the purchase of goods according to a tripartite agreement between the company, the bank and the supplier and the term of these loans is only (105) days and was fully repaid on the due dates during the year 2018AD, and this was clarified in the audited financial statements for the mentioned year, which is thus fully related to the operational activities of the company. Based on paragraph (First/5) of Article (4) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, it states that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C based on the above, loans are considered one of the components of the Zakat base, regardless of their type, source or classification, provided they are used to finance assets that are deducted from the Zakat base without requiring them to turn over, and the Circuit's review of the documents in the case file, the Arab Bank's account statement and the agreement concluded between the company, the bank and the supplier the documents in the case file, the Arab Bank account statement and the agreement between the company, the bank and the supplier, and the bank statements show the repayment of the loans during the year, which makes it necessary for the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding the clause (loans and the like for the year 2018).

With regard to the Taxpayer's appeal on the remaining clauses, whereas there is no fault for the Circuit to adopt the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with the content of these reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what was included in these reasons, and whereas it is established that the decision under appeal regarding the disputed clauses was consistent with the valid reasons on which it was based and sufficient to support its decision since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the outcome it reached on the clauses at issue in the case, bearing in mind its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from its submitter/ Company..., Commercial Registration (...), Unique Number (...), and the Zakat, Tax and Customs Authority, against the decision of the second circuit regarding the violations and disputes of income tax in Riyadh with the number (ISR-2022-1134) issued in case number (ZW-37852-2021) related to the zakat assessment for the years from 2016AD to 2018AD.



Second: On the Merits:

1- Rejecting the Taxpayer's appeal and upholding the decision of the circuit regarding the clause (depreciation difference for the years 2016 and 2018).

2- Rejecting the Taxpayer's appeal and upholding the decision of the circuit regarding the clause (guarantee fees due for 2016 as a provision and the clause of the user from the doubtful debts provision for the years 2016, 2017AD, and 2018).

3- Regarding the Taxpayer's appeal on the clause (not deducting the provisions for the years 2017 and 2018 from the partners' book net profit):

A- Confirming the end of the dispute regarding the appeal on the amount of 35,633,835 Riyals and the amount of 25,101,468 Riyals

B- Rejecting the appeal and upholding the decision of the circuit regarding the amount of 305,902 Riyals.

4-Regarding the Taxpayer's appeal on the clause (Ordinary expenses for the years 2016 to 2018):

A-The Taxpayer's appeal is rejected, and the decision of the Appellate Committee regarding the clause (Income tax expense) is upheld.

B-The Taxpayer's appeal is rejected, and the decision of the Appellate Committee regarding the clause (Penalty expense paid to the Capital Market Authority) is upheld.

C-The Taxpayer's appeal is accepted, and the decision of the Appellate Committee regarding the clause (Life insurance expense) is canceled.

D-The matter regarding the Taxpayer's appeal on the clause (Withholding tax) is dismissed.

E-The Taxpayer's appeal is rejected, and the decision of the Appellate Committee regarding the clause (Fines expense) is upheld.

5-Regarding the Taxpayer's appeal on the clause (Non-reduction of adjusted profits by the distributed profit from the annual profit for the years 2016 to 2018):

A-Establishing the end of the dispute regarding the appeal on the following amounts: 258,112,000 Riyals and 366,228,058 Riyals and 388,069,000 Riyals.

B-The appeal is accepted, and the decision of the Appellate Committee regarding the following amounts is canceled: 380,888,000 riyals, 380,771,942 riyals, and 501,431,000 riyals.



6-The Taxpayer's appeal is rejected, and the decision of the Appellate Committee regarding the clause (Rejection of deductions for fixed asset additions financed from the annual profit for the years 2016 to 2018) is upheld.

7-The Taxpayer's appeal is rejected, and the decision of the Appellate Committee regarding the clause (Non-deduction of deferred Revenue write-offs for the year 2016AD) is upheld.

8-The Taxpayer's appeal is rejected, and the decision of the Appellate Committee regarding the clause (Addition of credit balances to the zakat base for the years 2016 and 2017) is upheld.

9-The Taxpayer's appeal is rejected, and the decision of the Appellate Committee regarding the clause (Non-approval of deductions for advance payments for the years 2016 and 2017) is upheld.

10-The Taxpayer's appeal is rejected, and the decision of the Appellate Committee regarding the clause (Non-acceptance of deductions for adjustments on retained earnings for the year 2017) is upheld.

11-The Taxpayer's appeal is accepted, and the decision of the Appellate Committee regarding the clause (Loans and similar for the year 2018) is canceled.

12-The Taxpayer's appeal is rejected, and the decision of the Appellate Committee regarding the clause (The company's claim to calculate zakat on the zakat base and not the adjusted profit) is upheld.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-170306

Case No. Z-2023-170306

Keywords:

Zakat - adjustments to net profit - incentives - accepting Taxpayer appeal

Summary:

The Taxpayer's objection to the decision of the First Circuit for adjudicating income tax violations and disputes in Jeddah Governorate No. (IZJ-2022-2475), where his appeal lies on the clause (incentives/technicians - installation) and the clause (incentives/administrators - supervisors) because the Adjudication Circuit did not accept the Taxpayer's objection despite the documents that were submitted to the Authority and the committee and the exit of the money from the Taxpayer's liability and spending it on those bonuses and incentives for the worker. The Appellate Committee found that the existence of these bonuses and the need for them to be based on the procedures prescribed by the Labor Law is irrelevant when calculating the Zakat transaction, because these regulatory procedures are intended for another purpose, which is to achieve the protection of the rights of workers in enterprises. This means; accepting the Taxpayer's appeal and canceling the decision of the adjudicating circuit.

Document:

- Article (5/1) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)

Facts:

The appeal filed on 16/01/2023 by (...), National ID No. (...) In his capacity as the General Manager of the appellant company under the Memorandum of Association, on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2475) issued in Case No. (Z-89209-2021) regarding the 2019 Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: rejecting the plaintiff's objection to the (technicians - installation) incentives clause for 2019.



Second: rejecting the plaintiff's objection to the incentives clause (administrators and supervisors) for 2019.

Since this decision was not accepted by the Taxpayer (Company ...), he filed a list of appeals, which included the following:

The Taxpayer disagrees with the decision of the Appellate Circuit, claiming that with regard to the clause (incentives/technicians/installation), the Authority and the Committee installation), the Authority and the Committee determined that they were not satisfied with the deductibility of the expense from the organizational point of view only and did not look at the fact that the money was proven to have left the Taxpayer's estate, since the Authority's disapproval lies in its disagreement with the legality of deducting these incentives for employees on the grounds that they do not comply with what the Labor Law requires for their approval to become a deductible expense, and what the Authority stated and the Committee supported in the legality of the existence of these bonuses and incentives and the need for them to be based on the procedures established by the Labor Law, has nothing to do with the calculation of the Zakat base it is irrelevant when calculating the zakat base and deciding whether or not the amounts enter the base, because these regulatory procedures are intended for another purpose from which the regulator aims to achieve the protection of the rights of workers in establishments, and since the basis for the obligation of zakat on the money is that it remains in the hands of the Taxpayer when the turn of the year passes, and the documents presented to the Authority and the Committee proved that the money left the Taxpayer's hands and was spent on these bonuses and incentives for workers.

With regard to the clause (incentives/administrators/supervisors)the Taxpayer claims that documents supporting the receipt of these incentives by employees (administrators and technicians) were submitted, and it is clear from the decision under appeal that these documents were accepted by the Authority and did not address them, but requested an increase in the regularity of the expense by having an internal regulation approved by the Ministry of Labor, which is contrary to the provisions of paragraph (1) of Article (5) of the Zakat Collection Executive Regulations, and the Taxpayer proved to the Authority that this incentive expense is applicable to all conditions stipulated in the aforementioned article, as he provided proof of the fact of the expense, which is the incentive account statement with the names of the employees entitled to it all the conditions mentioned in the aforementioned article apply to it, as he provided proof of the reality of the expense, which is the incentive account statement with the names of the employees entitled to it, and also provided the documents of disbursement of these incentives to employees, whether transfers or receipt authorizations, and provided proof of the nature of this expense, thus all the conditions mentioned in the article - which does not include the requirement that salaries be registered in the insurance or incentives be approved by the labor office - have been applied to it exclusively he submitted documents supporting the deduction of the expense before the Authority during the examination process and submitted other documents and the internal policies regulation approved by the Labor Office during the filing of the preliminary lawsuit. The Taxpayer referred to the documents proving the expense as well as the



reimbursement transfers, although the article did not require proof of reimbursement, but only proof of its entitlement, and also attached a copy of the internal policies regulation approved by the Labor Office.

On Wednesday, 07/02/2024, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; 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: 21/4/1441 AH after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, 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 formally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

As for the Taxpayer's appeal regarding the clause (incentives/technicians/installation), the basis of the Taxpayer's appeal is that the money must remain in the hands of the Taxpayer when the turn of the year arrives, and it is proven from the documents submitted to the Authority and the Committee that the money left the Taxpayer's possession and was spent on these bonuses and incentives for the employees. Based on the above, and after reviewing the appeal list and the replying memorandum, it appears that the dispute between the parties lies in the incentives for technicians - installation for 2019 in the amount of (3,278,824) riyals, and that the subject of the Taxpayer's appeal lies in the non-acceptance by the Adjudication Circuit of the Taxpayer's objection despite the documents that were submitted to the Authority and the Committee and the exit of the money from the Taxpayer's liability and spending it on these bonuses and incentives for employees, since the Taxpayer submitted the labor regulation approved by the Minister of Labor, bank transfers, disbursement documents and a statement of the incentives that were disbursed, and since the existence of these bonuses the existence of these bonuses and the need for them to be based on the procedures prescribed by the Labor Law is irrelevant when calculating the Zakat transaction, because these regulatory procedures are intended for another purpose, which is intended by the Law to achieve the protection of the rights of workers in establishments, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Circuit of Determination on this clause.

With regard to the Taxpayer's appeal regarding the clause (incentives/administrators-supervisors), and where his appeal lies in the fact that he submitted documents supporting the receipt of these incentives by employees (administrators and technicians), and it is clear from the decision under appeal that these



documents are accepted by the Authority and did not address them, but requested an increase in the regularity of the expense in the presence of an internal regulation approved by the Ministry of Labor, which is contrary to the approval of paragraph 1 of Article 5 of the Executive Regulations for the Collection of Zakat Zakat (Zakat Collection). Based on the above, and after reviewing the appeal list and the replying memorandum, it appears that the dispute between the two parties lies in the incentives for administrators and supervisors for the year 2019 in the amount of (49,013) the Taxpayer's appeal lies in the fact that the Adjudication Circuit did not accept the Taxpayer's objection despite the submission of documents supporting the receipt of these incentives by employees (administrators and technicians) and that the money was released from the Taxpayer and spent on these bonuses and incentives for employees, as the Taxpayer submitted the work organization regulation approved by the Minister, bank transfers, disbursement documents and a statement of the incentives that were disbursed the existence of these bonuses and the need for them to be based on the procedures prescribed by the Labor Law is irrelevant when calculating the Zakat transaction, because these regulatory procedures are intended for another purpose that the Law aims to achieve in order to protect the rights of workers in the establishments, which concludes that the Circuit accepts the Taxpayer's appeal and cancels the decision of the Adjudication Circuit on this clause.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company ..., commercial register (...), Unique number (...) Against the decision of the First Circuit of Income Tax Violations and Disputes in Jeddah Governorate (IZJ-2022-2475) issued in Case No. (Z-89209-2021) related to the 2019 Zakat assessment.

Secondly: On the Merits:

- 1- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the incentives clause (technicians - installation).
- 2- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the incentives clause (administrators and supervisors).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-191565

Case No. Z-2023-191565

Keywords:

Zakat - Adjustments to Net Profit - Bonuses - Acceptance of the Authority's appeal

Summary:

The Zakat, Tax and Customs Authority (ZTCA) appealed the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate (IZJ-2023-90609), as its appeal lies on the clause (bonuses) because it did not accept its deduction from the Zakat base. The Appellate Committee found that the dispute between the two parties is based on the documents attached to the case file, and it is clear that the Taxpayer did not provide proof of the disbursement of these bonuses and the payment of bonuses to the employees. Consequently, the authority's appeal is accepted, and the decision of the adjudication committee is canceled.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Article (6/2) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Article (20/3) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 05/04/2023, from the Zakat, Tax and Customs Authority, and the appeal filed on 06/04/2023, from ... Commercial Register No. (...), on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2023-90609) issued in Case No. (Z - 90609 -2022) related to the 2016 Zakat assessment, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:



First: proof that the dispute over the end-of-service clause for 2016 has been resolved.

Secondly: the plaintiff's objection to the hired labor clause for 2016 is denied.

Third: accepting the plaintiff's objection to the remuneration clause for 2016.

Fourth: deny the plaintiff's objection to the 2016 salaries and wages clause.

Fifth: deny the plaintiff's objection to the receivables clause for 2016.

Vi: rejecting the plaintiff's objection to the other payables clause for 2016.

Seventh: rejected the plaintiff's objection to the 2016 receivables clause.

As this decision was not accepted by the Taxpayer (Company ...), he filed a list of appeals, which was reviewed by the Circuit, in which he demanded that his appeal be accepted and that the decision of the Adjudication Circuit be reversed and annulled.

This decision was not accepted by the appellant (Zakat, Tax and Customs Authority), so it submitted an appeal list, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (bonuses). The Authority explains that it did not accept the deduction of the bonuses for the contested year from the Zakat base, and refunded them to the adjusted net profit because the Taxpayer did not submit the labor regulation approved by the Ministry of Labor (previously), which explains the mechanism of bonuses and incentives, as follows

The Authority bases its action to deny the approval of this expense on Article 5(1) of the Zakat Collection Regulation regarding the expenses that may be deducted. The Circuit issuing the decision under appeal accepted the Defendant's objection on the pretext of providing supporting documents. In this regard, the Authority would like to inform you that the Defendant's objection initially lacked documentary proof of the clause under appeal and proper accounting proof of this clause; the Defendant stated in his claim that he had submitted the work organization regulation to the Authority, which the Authority affirms is completely untrue, and as for the contents of the decision under appeal, it does not change the regularity of the deduction of rewards and incentives on the basis of their inconsistency with the regulations the Authority emphasizes that this is completely untrue, and as for the contents of the decision under appeal that the failure to submit the approved labor regulation does not change the legality of deducting bonuses and incentives on the basis of their non-compliance with the requirements of the Labor Law to become a deductible expense, in addition to what is included in the decision the Authority responds that the issuing circuit's reliance on the decision is incorrect, as it is no secret to your esteemed circuit that in order to verify the validity of the expense and the completeness of its statutory elements, the following must be presented:

- a. Employee contracts; to verify whether or not they include a clause for the payment of bonuses to employees.
- B. A labor organization regulation approved by the Ministry of Social Affairs to clarify the mechanism for calculating bonuses and the extent to which they correspond to employee contracts.
- C-



Proof of disbursements to employees under the two paragraphs above, so that they are identical to what was authorized in the financial statements. The Authority also assures your esteemed circuit that there is no truth to the statement in the reasons for the decision that the Defendant provided proof of payment of these amounts at the examination stage, as after reviewing the case file, no document was found to support what was mentioned and he did not provide a list of sanctions and rewards approved by the Ministry of Labor, in addition to his failure to provide proof of payment of the bonus through bank receipts or receipt bonds, which confirms that he does not meet the legal conditions for accepting the expense; therefore, it cannot be considered a deductible expense. She requests that her appeal be accepted and the decision of the Adjudication Circuit be reversed and annulled.

On Saturday, 08/06/2024 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 (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 8/4/1445 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:



The conditions for considering the appeal procedurally are fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and decisions, which means that the appeal requests are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their conduct.

On the merits, with regard to the Authority's appeal on the clause (remuneration), and where the Authority's appeal lies in the fact that it did not accept the deduction of the remuneration for the disputed year from the Zakat base, and based on Article 6, paragraph 2, regarding the expenses that may not be deducted, as follows: "Expenses that the Taxpayer is unable to prove their expenditure by supporting documents or other evidence." Based on paragraph (3) of Article (20) of the Zakat Collection Executive Regulations issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which states: "The burden of proving the validity of the clauses and any other data contained in the Taxpayer's Zakat declaration shall be on the Taxpayer, and in case he is unable to prove the validity of the clauses contained in his declaration, the Authority may not authorize the clause whose validity is not proven by the Taxpayer or make an discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." Based on the above, and after the Circuit's review, where it found that the dispute between the parties is a documentary dispute, and by reviewing the documents attached to the case file, it appears that the Taxpayer did not provide proof of the disbursement of these bonuses and their



discharge from his liability, which is the payment of bonuses to employees, and where the dismissal decision was based on the Authority's defense that the labor regulation is not available and did not refer to the failure to provide disbursement documents whereas, the Authority referred to the failure to provide disbursement documents, while the Authority referred to it in the appeal list by not providing any supporting documents for this clause, such as proof of disbursement of the bonus through bank receipts or receipt bonds, and where the Taxpayer did not attach the necessary documents, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit with regard to this clause.

With regard to the Taxpayer's appeal on the remaining clauses, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with what these reasons contain, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons as the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and as this Circuit did not notice anything that warrants appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in its conclusion on the remaining clauses, bearing in mind its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally, from the applicant/ ... Commercial Register No. (...), Unique number (...), and the Zakat, Tax and Customs Authority, against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2023-90609) issued in Case No. (Z -90609-2022) related to the 2016 Zakat assessment.

Secondly: On the Merits:

- 1- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the (rewards) clause.
2. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (hired labor).
- 3 - Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (salaries and wages).
- 4- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication circuit regarding clause (Accounts payable).
- 5 - Rejection of the Taxpayer's appeal and upholding the decision of the division regarding the clause (other credit balances).



6 - Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (amounts due).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and
Disputes In Riyadh

Decision No. IR -2024-127607

Case No. Z-2022-127607

Keywords:

Zakat— Adjustments to net profit— End of service benefits paid— Acceptance of the authority's appeal

Summary:

The objection of the Zakat, Tax and Customs Authority to the decision of the First Circuit regarding violations and disputes of income tax in Jeddah Governorate No. (IZJ-2022-687), where its appeal lies on the clause (Investments for the years 2015 and 2016) for deducting the balance at the end of the period after deducting the loan for the subsidiary company as it was not subject to zakat, and the clause (Other long-term receivables for the year 2016AD) because the debt arose during the year in dispute and did not exceed one year, and the clause (<1>End of service benefits paid for the year 2018) regarding the amount of (485,062) riyals for its treatment of provisions during the assessment. After reviewing the case file and the papers it contained, the Appellate Committee found that the documents submitted by the Taxpayer at the adjudication stage, represented by an analytical statement prepared manually in addition to financial settlements, amounted to SAR 3,213,562, which is clearly less than what was declared in the lists and the amount claimed by the Taxpayer. The implication is that the appeal of the authority is partially accepted and the decision of the adjudication committee is amended.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Article (4/9) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal was heard on 27/04/2022, from ..., National ID No.(...) As an agent under Agency No. (...) On behalf of the appellant company, the appeal filed on 28/04/2022 from the Zakat, Tax and Customs Authority (ZTCA) against the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-687) issued in Case No. (2021-44626-Z) related to the Zakat assessment for the years 2015 to 2018 in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: The Taxpayer's claim is filed against the Zakat, Tax and Customs Authority:

First: rejected the plaintiff's objection to the deferred contributions clause for 2015 and 2016.

Second: dismissed the plaintiff's objection to the trade and other credits for the years 2015 to 2018.

Third, the plaintiff's objection to the loan clause is dismissed.

Iv: accepting the plaintiff's objection to the investments clause for 2015 and 2016.

V: plaintiff's objection to the employee receivables-homeownership line clause for 2018 is denied.

Sixth: rejected the plaintiff's objection to the net investment clause in the 2016 and 2017 leases.

Seventh: accepting the plaintiff's objection to the other long-term receivables clause for 2016.

Eighth: accepting the plaintiff's objection to the share of other comprehensive loss clause for 2017.

Ix: accepting the plaintiff's objection to the severance pay paid for 2018.

Tenth: dismissed the plaintiff's objection to the assets held for exclusion for 2015.

Eleventh: rejected the plaintiff's objection to the unrealized financing component of long-term receivables for 2016 and 2017.

As this decision was not accepted by the Taxpayer (Company ...), he filed a list of appeals, which was reviewed by the Circuit, which included, in essence, that the Taxpayer requests the acceptance of his appeal and the reversal of the decision of the Adjudication Circuit.

This decision was not accepted by the appellant (Zakat, Tax and Customs Authority), so it submitted a list of appeals reviewed by the Circuit, where the Authority's appeal lies on the clause (investments for the years



2015 and 2016). The Authority explains that it deducted the balance of the last period after deducting the loan to the subsidiary company, which was not taxed, and during the stage of studying the objection, where the plaintiff had previously submitted the financial statements of the company ...he submitted the Memorandum of Association of the company and submitted the Board of Directors' resolution approving the increase in the capital and where the additional contribution to the capital appeared according to the list of changes in partners' rights of the company. (75,000,000) SAR in 2015 and (990,000,000) SAR in 2016, which is registered with the Authority and submitted the Zakat declaration for the two years and an examination case was opened by the Authority and the assessment was made for the two years and it became clear through the declaration that this contribution was added to the capital but the company did not have to pay Zakat since the base is negative, so the Authority rejected the plaintiff's objection regarding the above clause since these amounts were not Zakat in the subsidiary company. With regard to the clause (Other Long-Term Receivables for 2016), the Authority explains that it did not accept the deduction of the clause Other Long-Term Receivables from the Zakat base, as there is no statutory provision supporting the deduction of long-term receivables, and during the stage of studying the objection, the plaintiff presented a court ruling issued in favor of ...during the stage of studying the objection, the Authority held a hearing on 21/02/2021 AD, in which it explained its viewpoint in its action taken regarding the above clause, and accordingly, the Authority rejected the plaintiff's objection regarding the above clause, as the Zakat Collection Regulation issued in 1438 AH did not authorize the deduction of any clause from the Zakat base that has no basis in the financial statements, and there is no article in the regulation authorizing the deduction of the clause, as no clause can be deducted except by a statutory text. Regarding the clause (End of service gratuity paid for 2018): a- Regarding the amount of SR (485,062), the Authority explains that when assessing, it processed the allocations based on the provisions of paragraph (9) of Article (4) of the Zakat Collection Regulation issued in 1438 AH, which stipulates that: First: The zakat base consists of all the funds of the Taxpayer subject to zakat, including: 9- Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting the user during the year." what the plaintiff is claiming is the deduction of the payments included in the statement of other comprehensive income, and since the Authority, when assessing, took the net profit before zakat according to the income statement, while the elements of comprehensive income were not taken when calculating the due zakat and net profit because they are the result of valuation and not real, the Authority rejected the plaintiff's objection regarding the above clause, and the Authority maintains the validity of its procedure. She asks that her appeal be accepted and that the decision of the dismissal panel be reversed.



On Sunday, March 10, 2024, 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 conferencing in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 A.H.; and by calling on the opponents, he/she attended/... National ID No. (...), as agent for the plaintiff under agency No. (...) I attended ... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) On March 19, 1445 A.H., the Circuit reviewed the supplementary memorandum submitted by the Authority during the hearing. Upon presenting this to the plaintiff's agent, he requested an extension to respond, and the Circuit decided to accept his request and informed the plaintiff that it must respond to the defendant's memorandum within a maximum period of Sunday, 17/03/ 2024, after which the pleadings will be closed and the case will be submitted for deliberation and decision, and the Circuit will not accept any new documents or memoranda submitted after the aforementioned date. The next session will be on 23/04/2024 to pronounce the decision.

On Tuesday, 23/04/2024, 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 conferencing in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 A.H.; Calling on the opponents, Mr. ... National ID No. (...), as agent for the plaintiff by virtue of agency No. (...) ... (National ID No. ...) Attended, as the representative of the defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) On March 19, 1445 A.H., the Circuit decided to close the pleadings and deliberations.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, 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 means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.



On the merits, with regard to the Authority's appeal on the clause (Investments for 2015 and 2016), and where the basis of the Authority's appeal is that it deducted the balance of the last period after deducting the loan to the subsidiary company, which was not taxed, according to the above, and where the basis of the decision challenged in the revocation of the Authority's action is that the investee company is registered with the Authority and that the capital contribution was added to its Zakat base, which entails that this contribution is considered an investment that may be deducted from the Zakat base of the company appealed against, and where the Authority indicated in its supplementary appeal note that these amounts are not subject to the investee company, and attached the following

With regard to the Authority's appeal on the clause (other long-term receivables for 2016), and where the Authority's appeal lies in the fact that the debt arose during the year in dispute and did not exceed a year, and after the Circuit reviewed the case file and the papers it contains, and the decision of the Circuit in question, it appears that the Authority's appeal on this clause lies in the fact that the debt arose during the year in dispute and did not exceed a year, and by reviewing Note (26) of the financial statements for 2016 regarding other income it turns out that it includes the clause "Compensation from a customer" for an amount of (96) million riyals, which includes the amount in dispute (48) million riyals, and through non-current assets it is clear that there is an clause "Other long-term receivables" for an amount of (48) million riyals that arose during the year in dispute, which shows that the amount that the Taxpayer claims to deduct from the Zakat base did not exceed one year, and therefore it cannot be deducted from the Zakat base, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Dispute Resolution Circuit on this clause.

Regarding the Authority's appeal on the clause (End of service gratuity paid for 2018): a- With regard to the amount of (485,062 riyals), where the Authority's appeal lies in the fact that when assessing, it processed the allocations based on the provisions of paragraph (9) of Article (4) of the Zakat Collection Regulation issued in 1438 AH. Based on the above, and after reviewing the case file and the papers it contains, the Circuit found through the documents provided by the Taxpayer in the adjudication phase, represented by an analytical statement prepared manually in addition to financial settlements, and tracing them, it was found that they amount to (3,213,562) riyals, which is less than the amount claimed by the Taxpayer, which turns out to be less than what is declared in the lists and the amount claimed by the Taxpayer, which leads the Circuit to partially accept the Authority's appeal in the amount of (485,062) riyals and modify the decision of the Adjudication Circuit for not proving its payment.



B- With regard to the Authority's appeal regarding (3,468,000 riyals), Article (70) of the Sharia Procedure Law promulgated by Royal Decree No. M/1 dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the case and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the circuit, even if the content of the agreement is within the jurisdiction of another court or circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and whereas this circuit has proven the Authority's request to leave the appeal as stated in the letter issued by the Authority in the attachment memorandum the Authority informs your Honorable Circuit that the Taxpayer is requesting that the user be deducted from the allowance and not revaluation, and where the Taxpayer submitted a sample of the cash payment for the user from the allowance along with his objection, and the movement of the allowance according to Note (24) of the Notes to the Financial Statements confirmed the existence of amounts paid. As well as the statement of cash flows. Moreover, the amount that the Taxpayer claims to deduct is SAR 3,953,062, while the amount used according to the financial statements is SAR 3,468,000, so the Authority would like to inform the Honorable Circuit to partially leave its appeal by deducting the user from the provision of SAR 3,468,000." therefore, the Circuit must accept the abandonment of the litigation.

With regard to the Authority's appeal on the clause (share of other comprehensive loss for 2017), and where Article (70) of the Sharia Procedure Law promulgated by Royal Decree No. M/1 dated 22/01/1435AH stipulates that "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement occurs before the case is set, the content of the claim and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the above, and where it is proven that the dispute ended with the Authority's acceptance of the claimant's requests as stated in the letter from the Authority in the supplementary note, which includes: "In light of the above, the Authority accepts the Taxpayer's view



by discounting the amount of 32,142,000 SAR from the net profit without reducing it by the amount of the actuarial profit of SAR 4,111,000 since it was not deducted from the rounded balance." therefore, it is necessary for the Circuit to establish that the dispute over the appeal on this clause is over.

With regard to the Taxpayer's appeal on the remaining clauses, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them, if it determines that these reasons make it unnecessary to introduce anything new, because in upholding them with what these reasons contain, it is clear that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and whereas it is established that the decision under appeal regarding the disputed clause was consistent with the valid reasons on which it was based and sufficient to carry its judgment as the issuing circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in its conclusion on the remaining clauses, in accordance with its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company Commercial registration number (...), unique number (...), and the Zakat, Tax and Customs Authority, against the decision of the first adjudication committee regarding violations and disputes of income tax in Jeddah province with number (IZJ-2022-687) issued in case number (2021-44626-Z) related to the zakat assessment for the years from 2015 to 2018.

Secondly: On the merits:

- 1- The Taxpayer's appeal is rejected and the decision of the adjudication committee regarding clause (deferred contribution) is upheld.
- 2- The Taxpayer's appeal is rejected and the decision of the adjudication committee regarding clause (trade payables and other credit balances) is upheld.
- 3- The Taxpayer's appeal is rejected and the decision of the adjudication committee regarding clause (long-term loans) is upheld.



4- The Taxpayer's appeal is rejected and the decision of the adjudication committee regarding clause (employee receivables - ownership of houses) is upheld.

5- The Taxpayer's appeal is rejected and the decision of the adjudication committee regarding clause (net investment in lease contracts) is upheld.

6- The Taxpayer's appeal is rejected and the decision of the adjudication committee regarding clause (assets held for exclusion for the year 2015) is upheld.

7- The Taxpayer's appeal is rejected and the decision of the adjudication committee regarding clause (unrealized financing element from long-term receivables) is upheld.

8- The authority's appeal is accepted and the decision of the adjudication committee regarding clause (investments for the years 2015 and 2016) is annulled.

9- The authority's appeal is accepted and the decision of the adjudication committee regarding clause (other long-term receivables for 2016) is annulled.

10- Confirmation of the end of the dispute regarding the authority's appeal on clause (share of other comprehensive loss for 2017).

11- Regarding the authority's appeal on (end-of-service benefits paid for 2018):

A- The authority's appeal is partially accepted and the decision of the adjudication committee regarding (amount of (485,062) riyals) is amended.

B- Acceptance of the abandonment of the dispute regarding the authority's appeal concerning (amount of (3,468,000) riyals).



Appellate Committee for Tax Violations and Disputes
Third Circuit to adjudicate income tax violations and disputes
In Riyadh

Decision No. IR-2024-191855

Case No. Z-191855-2023

Keywords:

Zakat - adjustments to net profit - partners' salaries – acceptance of the Taxpayer's appeal.

Summary:

The Taxpayer's objection to the decision of the first circuit for adjudicating violations and disputes of income tax in Riyadh number (IFR-2023-113299), where the Taxpayer's appeal on the clause (retained earnings) is based on the equality of profit distributions and withdrawals during the year, indicating that these profits did not exist at the date of preparing the financial statements, and argues that the profits were recorded in the partners' current account according to their share in the capital and that the partners' withdrawals exceeded the profits. In the clause (partners' salaries), the Taxpayer requests the full deduction of partners' salaries, not just what is registered with social insurance, as the partners manage the company themselves. And since it was established to the Appellate Committee regarding the clause of retained earnings that one partner's withdrawals exceeded the distributed profits and thus did not pass the year, and another partner's withdrawals were after the year had passed, and regarding the clause of partners' salaries, it was established that the Taxpayer submitted an analytical summary of salaries and wages and that a fixed amount was allocated to each partner for management, transportation allowance, and allowances. Since the authority did not accept the deduction of the difference, it argues that the amount of the difference in salaries stated in the declaration and registered with social insurance is much less than the salaries of similar positions in other companies, and by calculating the non-deductible amount and dividing it among the partners, it appears that it equals the salaries of similar positions. This means that regarding the clause of retained earnings, the Taxpayer's appeal is partially accepted, and regarding the clause of partners' salaries, the Taxpayer's appeal is accepted.



Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Article (70) of [The Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)
- Paragraph (8) of Clause (I) of Articles (4) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal was heard on: 2023/04/10, from (...), ID No. (...) In his capacity as the statutory representative of the appellant company under the Memorandum of Association, on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2023-113299) issued in Case No. (113299-2022-Z) related to the 2016 Zakat assessment in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

The plaintiff's objection was rejected (...) (.....) On the decision of the defendant/Zakat, Tax and Customs Authority regarding the assessment at issue.

As this decision was not acceptable to the Taxpayer (.....), he filed a list of appeals, which included the following:

With regard to the clause "Retained profits", the Taxpayer claims that the Board of Directors' decision to distribute profits and the decision to distribute the profits to the partners' accounts were submitted, as well as a bank statement, which, according to the replying memorandum and the Secretariat's decision, was not reviewed, the partners' current account showing the distribution and the partners' withdrawals and their disposal of the distributed balance of the retained earnings, and since the partners' balance on the date of preparation of the financial statements (zero), the partners' current accounts were not shown in the submitted trial balance (if zero balances were shown in the balance sheet, the number of accounts would be very large and it would be difficult to download them electronically) the annex provided by the Zakat Authority and taken from our financial statements shows that dividends and withdrawals are equal during



the year, which indicates that these profits did not exist on the date of preparation of the financial statements, but the Zakat Authority insists on including this amount, which does not exist within the Zakat base, and regarding the clause (partners' salaries) the Taxpayer claims that the partners are the ones who manage the company themselves, and since Article 6 of the Executive Regulations, the text of which was mentioned in the reply note provided by the Authority, states that the partners' salaries and the remuneration of the Board of Directors are deducted, we point out that the partners did not receive any remuneration or allowances other than what was stated, the amount of the difference in salaries stated in the declaration and registered in the social insurance is much lower than the salaries of similar salaries in other companies, and we saw that the Authority adheres to the adaptation of the article, which allows the deduction of the salaries and allowances of the owner of the establishment and the president, vice president and members of the board of directors provided that the salaries and allowances of the owner of the establishment are registered in the social insurance without mentioning the remuneration of the board of directors, and in this case, the owners of the establishment are the directors and members of the board of directors, and no other, so the Taxpayer requests the reversal of the decision of the Adjudication Circuit under appeal for all the above-mentioned reasons.

On Tuesday, 11/06/2024, 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, through video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated:08/04/1445 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 reviewing the case documents and the appeal list submitted by the Taxpayer, 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 formally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.



The Taxpayer's appeal regarding the clause (Retained Profits) and where the Taxpayer's appeal lies in the equality of dividends and withdrawals during the year, which indicates that these profits did not exist on the date of preparing the financial statements, and based on paragraph (8) of clause (I) of Article (4) of the Executive Regulations for Zakat Collection issued by Minister of Finance Decision No. (2082) dated 01/06/1438H, which stipulates the following: "The Taxpayer's appeal "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8- The balance of retained earnings from previous years at the end of the year." Based on the above, and since the dispute lies in adding the balance of retained earnings at the beginning of the period, the authority acknowledges adding the balance of (4,259,508) riyals to the Zakat base due to the lack of supporting documents. The Taxpayer argues that the profits were recorded in the partners' current account according to their share in the capital and that the partners' withdrawals exceeded the profits. Upon reviewing the documents, it is clear that the Taxpayer submitted a decision from the partners dated 23/2/2016 to distribute the balance of retained earnings for the year ending 31/12/2015, as well as a bank statement in addition to an analytical statement for the partners' current account for partners (Partner A and Partner B). Upon reviewing the analytical statements, it was found that profits of (425,951) riyals were transferred to Partner A's current account on 29/02/2016, and it is evident that Partner A's withdrawals exceeded the distributed profits and thus did not complete the year. Regarding Partner B, upon reviewing the analytical statement, it is clear that profits of (3,833,557) riyals were transferred to Partner B's current account on 29/02/2016, and it is evident that Partner B's withdrawals amounting to (813,815) riyals occurred after the year had completed, which leads the authority to accept the Taxpayer's appeal partially and add the amount of (813,815 riyals) that had completed the year, and amend the decision of the adjudication authority.

Whereas, with regard to the Taxpayer's appeal regarding the clause (Partners' salaries) and where the Taxpayer's appeal lies in his demand to deduct the entire salaries of the partners and not only what is registered with the social insurance because the partners are the ones who manage the company themselves, and based on paragraph (2) of Article 5 of the Executive Regulations for Zakat Collection issued by Ministerial Resolution (2082) dated 1/6/1438 AH regarding the expenses that may be deducted, provided that: " The salaries and allowances of the owner of the establishment, whether it is a sole proprietorship, a capital company, or a partnership, as well as the bonuses paid to the chairman, vice-chairman, and members of the board of directors who are partners in the company, are considered deductible expenses provided that the salaries and allowances of the owner of the establishment are registered with social insurance." According to the above, it is clear that the zakat treatment for the clause



of partners' salaries and wages is to accept the deduction of the salaries of the registered partners or owners in the General Organization for Social Insurance. Referring to the documents, it is clear that the Taxpayer submitted an analytical summary of the salaries and wages and that a fixed amount of (50,000) riyals per month was allocated to each partner for management, transportation allowance, housing, and communications. Since the authority did not accept the deduction of the difference amounting to (1,112,400) riyals, the Taxpayer argues that the difference in salaries mentioned in the declaration and registered with social insurance is much less than the salaries of similar positions in other companies. By calculating the non-deductible amount and dividing it among the partners, it appears that it equals the salaries of similar positions, which leads the circuit to accept the Taxpayer's appeal and overturn the decision of the division regarding this clause.

Whereas, with regard to the Taxpayer's appeal regarding the (salary difference) clause, the Circuit is not to be faulted for adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons do not contain anything new, because in supporting the decision with the contents of these reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and because it is proven that the decision under appeal regarding the disputed clauses was consistent with the valid reasons on which it was based and sufficient to carry its judgment the issuing Circuit scrutinized the dispute and reached the conclusion it reached in the operative part of its decision, and this Circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, which leads this Circuit to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the result it reached in this clause at issue in the case, bearing in mind its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ (.....) Commercial (.....), Unique number (.....), against the decision of the first authority for adjudicating violations and disputes of income tax in Riyadh with number (IFR-2023-113299) issued in case number (Z-113299-2022) related to the Zakat assessment for the year 2016 AD.

Secondly: On the Merits:



1- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication authority regarding clause (salary differences).

2- Partially accepting the Taxpayer's appeal and amending the decision of the adjudication authority regarding clause (retained earnings).

3- Accepting the Taxpayer's appeal and canceling the decision of the adjudication authority regarding clause (partners' salaries).

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 Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-169269

Case No. Z-2023-169269

Keywords:

Zakat – Adjustment to net profit – salary differences – acceptance of the Taxpayer's appeal – acceptance of the authority's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority's objection to the decision of the first division regarding violations and disputes of income tax in Jeddah with number (IZJ-2022-2426), where the Taxpayer's appeal is on the clause (bad debts for the year 2017) as the disputed clause has met the conditions for deduction, and the authority's appeal is on the clause (difference in external purchases for the year 2017) for its return of the difference between external purchases based on the Taxpayer's declaration and the external purchases stated in the customs statement, and the clause (salary differences for the year 2017) for adding the clause to the net profit. The appellate committee found that the Taxpayer did not provide the supporting documents for his objection regarding the grounds for those differences (Adjustment) mentioned in the statement he submitted, and that they indeed represent Adjustment to the salary clause which resulted in that difference. The Taxpayer's claim in his objection before the division that the differences arose due to an error in classifying employee bonuses without any supporting evidence does not affect this. Consequently, the authority's appeal is accepted, and the Taxpayer's appeal is accepted.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (1/A) Article (5) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



- Article (5/3) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Article (20/3) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:



The appeal filed on 12/01/2023 from /... National ID number (...) As an agent for the appellant company under Agency No. (...), and the appeal filed on 15/01/2023 from the Zakat, Tax and Customs Authority (ZTCA), against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2426) issued in Case No. (Z-81678-2021) related to the 2017 Zakat assessment, in the case filed by the Taxpayer against the ZTCA, in which the decision of the Adjudication Circuit ruled as follows:

First: deny the plaintiff's objection to the current liabilities clause.

Second: accepting the plaintiff's objection to the salary difference clause.

Third: deny the plaintiff's objection to the bad debt clause.

Iv: the plaintiff's objection to a labor hire clause was rejected.

V: accepting the plaintiff's objection to the OPT clause.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Dispute Resolution Circuit, the Taxpayer's appeal with regard to the clause (Bad Debts for 2017) is that the clause in dispute has met the conditions for deduction in Article (3) of the Zakat Executive Regulations, as the Taxpayer submitted both a signed and sealed certificate from the Chartered Accountant as well as the Board of Directors' resolution to confirm the validity of the company's position. The Taxpayer also objects to the clause (Current Liabilities for 2017) and the clause (Labor Hire for 2017). Therefore, the Taxpayer requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above reasons.



With regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal lies in relation to the clause (Salary Difference for the year 2017) that the Taxpayer did not provide documentary proof of the disputed clause, as the Authority requested the Taxpayer to provide the following during the assessing phase: (An analytical statement of direct and indirect salaries and wages with the name of each Taxpayer and all details, a screenshot for each month in social insurance and for all branches and salaries and wages subject to social insurance), where the Taxpayer submitted the required information and after the examination, the unexplained difference related to salaries was refunded in the amount of (2,143,221) SAR, during the objection stage, he did not provide a justification for the difference and merely stated that these differences "cannot be documented" and provided the statements provided during the examination that were taken into account when refunding the difference, and accordingly, due to the Taxpayer's failure to provide the necessary documentary proof, his objection was rejected. The Authority also answers the reasons for the Circuit's decision as incorrect and contrary to the correct legal requirement; the Authority states that the dispute lies in adding a salary expense difference clause of, the Authority states that the dispute lies in the addition of a salary expense difference clause in the amount of (2,143,221) riyals to the net result, resulting between the Taxpayer's submission of statements and supporting documents for the disputed clause and the rejection of the difference that is not documented, and the acceptance of the proven documents, and the Authority states that through the Taxpayer's submissions of defenses and documents to the decision-making circuit, which is a repeat of what he previously submitted, as the decision of the Circuit stated that the clause is accepted in favor of the Taxpayer based on the data submitted, which is not true, as according to the Taxpayer's claim sheet it is impossible for there to be a difference without documentary proof and the Taxpayer stated that while the Authority demands documentary proof of the difference, which the Taxpayer did not provide during the litigation phase, the decision of the Adjudication Circuit accepted all salary expenses without explaining the nature of the difference, which is the subject of the dispute with the Taxpayer, based on paragraph (2) of Article (6) of the Executive Regulations governing the collection of Zakat issued by Ministerial Resolution No. (2082) mentioned above, which confirms that the expenses that the Taxpayer cannot prove their disbursement by supporting documents or other evidence of proof, the Taxpayer failed to provide documentary proof of the payment of salaries and the approved work organization regulation to verify the expenditure, which makes the decision incorrect in its conclusion and must be overturned.

With regard to the clause (difference in foreign purchases for 2017AD), the Authority clarifies that it has refunded the difference between foreign purchases as stated in the Taxpayer's declaration and foreign



purchases as stated in the customs statement, after reviewing the documents submitted by the Taxpayer, namely: (An analytical statement of foreign purchases with an explanation of the reasons for the difference between the Zakat declaration and the customs declaration). The Authority clarifies that it refunded the difference in undocumented expenses to net profit because the Taxpayer did not provide justification for this difference or evidence to support its validity as an expense. The Authority responds to the grounds of the Circuit's decision that they are incorrect and contrary to the correct legal requirements, given that the dispute lies in the addition of a difference in foreign purchases amounting to SAR 2,781,303 to the net result, resulting from the amount recorded in the declaration differing from the company's books and its non-compliance with the customs data according to the documents submitted, where the amount recorded in the declaration was compared with the amount in the books according to the Excel statement submitted by the Taxpayer to the Authority, as it reflects the accuracy of the customs declaration. The difference not substantiated by documents was refunded based on Article 6, paragraph 2 of the Executive Regulations governing the collection of Zakat issued by Ministerial Decision No. (2082) on 1/6/1438 AH mentioned above. Furthermore, given the discrepancy between the customs declaration and the Excel statement submitted, as stated in the Authority's appeal, where the customs declaration submitted by the Taxpayer amounted to a total value of SAR (454,383,621), while the company's records show a value of SAR (2,370,315,525), which is higher than the customs declaration. This was relied upon in the Authority's memorandum when comparing it with the declaration. The Taxpayer discussed this discrepancy and submitted statements and documents, some of which were consistent and some of which were inconsistent due to adjustments made during the year. It was difficult for the Taxpayer to explain this difference, stating that it was due to errors in customs clearance and timing, particularly at the end of the month and the end of the year. However, the Taxpayer did not provide documentary evidence of this to the Authority. Based on the above, it is clear that the Taxpayer claims that the difference amounted to SAR (55,987,520) and provided an analysis of the amount that was not supported by documentary evidence. Furthermore, the dispute with the Taxpayer over the difference added by the Authority lies in the amount of SAR (2,781,303), for which the Taxpayer was unable to provide supporting documents to verify its accuracy. Therefore, the Authority maintains the validity and soundness of its procedure and requests that the decision of the Adjudication Circuit on the clauses subject to appeal be revoked for the reasons presented.

On Thursday, 02/01/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of



the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision On the merits, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:



upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, 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 means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

In , the matter is related to the Authority's appeal regarding the clause (salary difference for 2017), and its appeal is that after examining the documents submitted by the Taxpayer at the request of the Authority, the unjustified salary difference of (2,143,221) SAR was refunded, and during the objection stage, he did not provide a justification for the difference and provided the statements submitted during the examination, which were taken into account when refunding the difference, and accordingly, because the Taxpayer did not provide the necessary documentary proof, his objection was rejected. Where paragraph (1/A) of Article (5) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH states that: "All ordinary and necessary expenses required for the activity shall be deducted whether they are paid or accrued, leading to the net result of the activity, provided that the following controls are met: A- It must be an actual expense supported by documentary evidence or other indications that enable the authority to verify its validity, even if it relates to previous years." Paragraph (3) of Article (20) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH states that: "The burden of proving the validity of what is stated in the Taxpayer's zakat declaration regarding clauses and any other data lies with the Taxpayer. If he is unable to prove the validity of what is stated in his declaration, the authority may refuse to approve the clause that is not proven valid by the Taxpayer or proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, and since the dispute between the two parties lies in adding the salary difference to the adjusted net profit; and since the authority appeals the division's decision and clarifies that the dispute lies in adding the clause



of salary expense difference amounting to (2,143,221) riyals to the net profit, as the difference is represented between what is stated in the declaration and what the Taxpayer submitted in documents and supporting evidence for the disputed clause, the authority rejected the unproven difference, while the Taxpayer argues that the salary clause represents necessary expenses incurred in the ordinary course of business; therefore, it should be recognized as actual expenses. Upon reviewing the documents submitted in the case file, it is clear that the Taxpayer submitted the financial statements for the year in question, where the salaries mentioned in those statements amounted to a total of (334,121) thousand riyals (267,914 thousand riyals + 65,207 thousand riyals as employee costs) in addition to an analytical statement of salaries. Upon reviewing the statement, it became clear that it does not match the financial statements; the total amount in the submitted statement was (257,165,935) riyals. However, the essence of the dispute does not lie in matching the statement submitted by the Taxpayer with the financial statements, but rather in the difference between the salaries registered in the Taxpayer's declaration and the salaries verified in the statement submitted by the Taxpayer to the authority. The authority matched the statement submitted to it by the Taxpayer (included in the authority's appeal statement) with what was stated in the zakat declaration, which resulted in a difference of (2,143,221) riyals (277,573,126 riyals - 257,429,905 riyals). Upon reviewing the statement submitted in the authority's appeal, which the Taxpayer provided to it during the objection phase, it became clear that there were differences amounting to (2,143,221) riyals listed as adjustments (Adjustment), which is the same amount that the authority demands to be proven with documentary evidence. Upon reviewing the documents submitted in the case file, it became clear that the Taxpayer did not provide the supporting documents for his objection regarding the grounds for those differences (adjustments) mentioned in the statement he submitted, and that they indeed represent Adjustment to the salary clause which resulted in that difference. The Taxpayer's claim in his objection before the division that the differences arose due to an error in classifying employee bonuses without any supporting evidence does not affect this, which leads the division to accept the authority's appeal and overturn the decision of the division regarding this clause..

Regarding Authority's appeal regarding the clause (Foreign Purchases Difference for 2017), and where its appeal lies, it refunded the difference between the foreign purchases from the Taxpayer's declaration and the foreign purchases included in the customs declaration, after reviewing the documents submitted by the Taxpayer, where it refunded the difference in the unsupported expense to the net profit because the Taxpayer did not provide the justification for this difference and support its validity as an expense. Where paragraph (3) of Article (20) of the executive regulation for the collection of zakat issued by Ministerial



Decision No. (2082) dated 1/6/1438 AH states that: "The burden of proving the validity of what is stated in the Taxpayer's zakat declaration regarding clauses and any other data lies with the Taxpayer. If he is unable to prove the validity of what is stated in his declaration, the authority may refuse to approve the clause that is not proven valid by the Taxpayer or proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, and since the dispute between the parties lies in adding the foreign purchase difference to the adjusted net profit, the Authority appeals against the Circuit's decision and clarifies that the dispute lies in adding the purchase difference clause in the amount of (2,781,303) riyals to the net profit, 303 riyals to the net profit, as the difference is the result of what is loaded in the declaration with what is in the books according to the Excel spreadsheet provided by the Taxpayer to the Authority as it reflects the reality of the customs declaration, and the difference that is not documented was refunded, while the Taxpayer argues that these differences are due to the timing difference of foreign currencies, based on the above, the imports statement issued by the General Authority of Customs is a basic evidence from a neutral third party, and by reviewing the case file it appears that the Authority action is to adjust the results of the Taxpayer's business due to the differences in the value of the imports and the value of the imports based on the differences in the value of imports included in the Taxpayer's declaration compared to the imports according to the statement submitted by the Taxpayer, which reflects the reality of the customs declaration, and by reviewing the documents submitted in the case file, it appears that the Taxpayer submitted a reconciliation of purchases (attached additional documents - Purchase Reconciliation 2017), and by looking at page (2), (which the Authority considered to reflect the validity and reality of the customs declaration after the Authority accepted all the adjustments attached to the declaration) the total purchases according to the statement submitted by the Taxpayer amounted to (2,370,315,525) SAR, while the Zakat return for the year in dispute included (2,373,096,828) SAR, thus, comparing the statement with the Zakat return; this resulted in differences in the amount of (2,781,302,88) SAR. upon reviewing the documents submitted, it was found that the Taxpayer did not provide any of the documents supporting this difference, as he merely stated that these differences are due to exchange rates, which cannot be verified because there is no evidence to support it, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Dispute Resolution Circuit in this clause.

With regard to the Taxpayer's appeal regarding (the bad debts clause for the year 2017), the Taxpayer's appeal is that the disputed clause met the conditions for deduction stipulated in Article (3) of the Zakat Collection Executive Regulations, as the Taxpayer submitted documents in support of his objection. Where



paragraph (3) of Article (5) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH states that: "Bad debts are considered an expense that may be deducted in accordance with the following rules: A- It must have been previously declared among the Taxpayer's Revenues in the year the Revenue is due. B- The bad debts must result from the activity being practiced. C- The Taxpayer must provide a certificate from their legal accountant indicating the write-off of these debts from the books by a decision from the authorized person. D- The debts should not be owed to parties related to the Taxpayer. The Taxpayer's obligation to declare income debts once they are declared."

based on the above, and since the dispute is about the failure of the disputed clause to meet the conditions set forth in the Zakat Regulation for the collection of Zakat, the Authority argues that the certificate submitted by the Taxpayer related to bad debts is invalid because it is not a reasonable confirmation of the write-off of these debts it is clear that the dispute over this clause is based on the documents submitted in the case file, and it is clear that the Taxpayer has provided evidence that it fulfills the conditions for the bad debt deduction, represented by (a certificate from the legal accountant in addition to the board of directors' decision to confirm that the debts have been written off), and this does not affect the Authority's argument this does not detract from the Authority's reference to considering the certificate as a non-confirmation report to prove the validity of the write-off of debts, as a review of the professional standard governing the auditor's report reveals that the text referred to by the Authority, which is part of the requirements of that standard (Standard 4400), which the chartered accountant must comply with when issuing the report; as the certificate submitted has taken into account what must be applied from the standard, as the certificate issued by the chartered accountant is a sufficient confirmation to prove the validity of the written-off debts, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit in this clause

Regarding the Taxpayer's appeal on the remaining clauses in the case. Whereas there is no fault in the court's adoption of the grounds for the contested decision without adding to them, since it deemed that those grounds were sufficient and did not require the addition of any new information, because in upholding it on the grounds set out in those reasons, it confirmed that it did not find in the objections raised against the decision anything that warranted a response beyond what was contained in those reasons. That being the case, and since it has been established that the decision under appeal in the dispute concerning the contested clauses is consistent with the valid reasons on which it is based and sufficient to support its ruling, as the court that issued it examined the substance of the dispute and reached the conclusion set out in its ruling. This court did not find anything that would warrant correction or comment in light of the arguments



presented before it. This court therefore rejects the appeal and upholds the decision of the court of first instance in its entirety with regard to the remaining clauses of the claim, based on the reasons given.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/company ..., commercial registration (...), unique number (...), and the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the first circuit regarding violations and disputes of income tax in Jeddah Province with number (IZ)-2022-2426) issued in case number (Z-81678-2021) related to the Zakat assessment for the year 2017AD.

Secondly: On the Merits:

- 1 - Acceptance of the Authority's appeal and cancellation of the decision of the circuit regarding clause (salary differences for the year 2017).
- 2 - Acceptance of the Authority's appeal and cancellation of the decision of the circuit regarding clause (differences in external purchases for the year 2017).
- 3 - Rejection of the Taxpayer's appeal and upholding the decision of the circuit regarding clause (current liabilities for the year 2017).
- 4 - Acceptance of the Taxpayer's appeal and cancellation of the decision of the circuit regarding clause (bad debts for the year 2017).
- 5 - Rejection of the Taxpayer's appeal and upholding the decision of the circuit regarding clause (hiring labor for the year 2017).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024- 160952

Case No. Z-2022-160952

Keywords:

Zakat-Adjustments to net profit-Employee benefits not related to activity in the financial statements-
Acceptance of the Authority's appeal-Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority's objection to the decision of the first circuit regarding violations and disputes of income tax in Jeddah Province number (IZJ-2022-2080), where the Taxpayer's appeal is on clause (profit share from the subsidiary for the years 2016 and 2017) as the invested company is a Saudi company and submits its declarations and pays Zakat for it and adopts the equity method in recording the investment, and the Authority's appeal is on clause (employee benefits not related to activity in the financial statements for the year 2017.) Because the circuit overlooked reviewing the movement of the financing costs clause which showed that the interest expenses are related to employee benefits programs. The appellate committee confirmed by reviewing the income statement, the other comprehensive income statement, and the cash flow statement, that those expenses were charged to the company's expenses as part of the established provision, and therefore; it takes the same ruling and treatment for the component of the provision as they are not considered accepted realized expenses. The result of that; acceptance of the authority's appeal and acceptance of the Taxpayer's appeal.

Document:

- Paragraph (A) of Article (4/2) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Article (6/2) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



- Article (20/3) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2082\) dated 01/06/1438 AH.](#)

Facts:



The appeal filed on 10/11/2022 from/... National ID number (...) As an agent for the appellant company under agency No. (...), and the appeal filed on 13/11/2022 by the Zakat, Tax and Customs Authority (ZTCA), against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate (IZJ-2022-2080) issued in Case No. (Z-2021-57374) related to the Zakat assessment for the years from 2016 to 2018AD, in the case filed by the Taxpayer against the ZTCA, in which the decision of the Adjudication Circuit ruled as follows: The Taxpayer's claim against the ZTCA:

First: rejecting the plaintiff's objection to the profit share clause of the subsidiary for the years 2016 and 2017AD.

Second: deny the plaintiff's objection to the Home Ownership Program for the years 2016, 2017, and 2018.

Third: modify the Defendant's action to deduct the interest costs recorded as loan fees for 2017.

Iv: accepting the plaintiff's objection to the clause of Zakat payments for 2017 and 2018.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, the Taxpayer's appeal is regarding the clause (share of profits from the subsidiary company for the years 2016 and 2017) that the investee company is a Saudi company that files its returns and pays Zakat thereon and adopts the equity method in recording the investment and the company's share of income, and the company excluded the share of income from local investee companies in Table No. (9) of the tax/Zakat returns during the calculation of the adjusted profit subject to Zakat to avoid flexing (9) of the tax/zakat returns while calculating the adjusted profit subject to zakat to avoid bending, and the Authority's action of adding the share of income from local investee companies to the company's profit subject to zakat resulted in bending the zakat on the same income, and the Taxpayer provided an explanation for the calculation of investments not including the value of the share of the investee company's income to reach the deductible investment for zakat purposes. The Taxpayer also objects to the clause (Employee benefits not related to activity in the



2017 financial statements) and the clause (Home Ownership Program for the years 2016, 2017 and 2018), and therefore the Taxpayer requests that the decision of the Adjudication Circuit on the clauses under appeal be reversed for the above reasons.

With regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal lies with regard to the clause (Employee benefits not related to the activity in the financial statements for 2017) that the decision of the Adjudication Circuit was incorrect, as the Circuit overlooked the movement of the financing costs clause, which showed that the interest expenses are related to employee benefits programs, as it determined that both the amount (18,614,000) SAR for 2018 and (17,906,000) SAR for 2017 are related to Note No. (26), which is the note (Employee benefits), and the amount of the dispute is clear and confirmed in the financial statements, accordingly, the amount of the dispute is clear and confirmed in the financial statements, which shows that it is fully attributable to employee benefits that are treated as a provision and the component is returned to the net profit, so the net benefit expense is what should be returned to the net profit, and the Authority accepted during the study of the objection regarding the year 2018 since it has already been fully refunded in the Taxpayer's return, as for the year 2017, the Taxpayer did not refund the full amount of (79,889,000) SAR, so the difference must be refunded based on Article (6/6) of the Zakat Executive Regulations issued by Ministerial Decision (2082), which states [all allocations] and the exceptions of the article do not apply to this allocation, so the Authority maintains the validity and integrity of its procedure and requests the reversal of the decision of the Circuit of Determination of the clauses under appeal for the above reasons.

On Tuesday, 23/01/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via videoconferencing in accordance with the procedures for remote videoconferencing; based on the provisions of Clause (2) of Article 15 of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; By calling on the litigants, /, National ID No. (...), as agent for the plaintiff under agency No. (...), and ... National ID number (...) As the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs, No. (...) And the date is 19/03/1445 AH. When the plaintiff's agent was asked about the lawsuit, he replied that he does not deviate from what was stated in the objection memorandum filed with the General Secretariat of Zakat, Tax and Customs Committees, and that he is satisfied with it, and adheres to the grounds, defenses and requests contained therein, and when this was brought to the defendant's



representative, it replied that it does not deviate from what was stated in the reply memorandum, and that it is satisfied with the submissions filed on the General Secretariat of Zakat, Tax and Customs Committees' portal, and adheres to the grounds, defenses and requests contained therein. When the parties were asked what they wished to add, they replied in the negative, so the Circuit decided to close the arguments and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, 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 means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits of the Authority's appeal regarding the clause (employee benefits not related to the activity in the 2017 financial statements), and where its appeal lies in the fact that the Circuit overlooked the movement of the financing costs clause, which showed that the interest expenses related to employee benefits programs, it determined that both the amount of (18,614,000) riyals for the year 2018 and (17,906,000) riyals for the year 2017 are related to Note No. (26), which is the note (employee benefits), and therefore the amount of the dispute is clear and confirmed in the financial statements, therefore, the amount of the dispute is clear and confirmed in the financial statements, which shows that it is entirely due to employee benefits, which are treated as a provision and the component is returned to the net profit, and therefore the net benefit expense is what should be returned to the net profit. During the study of the objection, the Authority accepted the amount for the year 2018 since it was previously fully refunded in the Taxpayer's declaration, while for the year 2017, the Taxpayer did not refund the full amount of (79,889,000) riyals. Where paragraph (2) of article (6) of the executive regulation for Zakat collection issued by ministerial decision (2082) dated 01/06/1438 AH regarding expenses that cannot be deducted states: "2- Expenses that the Taxpayer cannot prove their expenditure by supporting documents or other evidential indications." And where paragraph (6) of it states: "6- All provisions except for: a- Allowance for doubtful debts for banks provided that the bank submits a certificate from its board of directors containing a determination of the amount of doubtful debts and that the ... On it. B- Reserve for unearned premiums, and reserve for existing risks in insurance companies (and/or) reinsurance (technical reserves) provided that they are returned to the Zakat base in the following Zakat year and that their determination is according



to the professional standards followed in this activity," as stated in paragraph number (3) of article (20) of it: "The burden of proving the accuracy of what is stated in the Taxpayer's zakat declaration regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven to be accurate as stated in his declaration, and the authority may not approve the clause that is not proven to be accurate by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, and where the Authority argued that the entire clause is an unacceptable expense, while the Taxpayer argues that the entire clause is deductible expenses, and since the clause consists of interest costs recorded as loan fees in the declaration amounting to (17,906,000) Riyals and actuarial fees amounting to (7,160,990) Riyals, and since the circuit's decision accepted the recorded interest costs as loan fees in the declaration amounting to (17,906,000) Riyals and rejected the actuarial fees amounting to (7,160,990) Riyals, and by reviewing the notes of the financial statements (note number 26); it was found that the recorded interest costs as loan fees in the declaration amounting to (17,906,000) Riyals are part of the costs of the component of the employee benefits provision, and by reviewing the income statement, the other comprehensive income statement, and the cash flow statement, it was confirmed that those expenses were charged to the company's expenses as part of the established provision, and therefore; it takes the same ruling and treatment for the component of the provision as they are not considered accepted realized expenses, which leads the circuit to accept the Authority's appeal and cancel the decision of the circuit regarding this clause.

Regarding the Taxpayer's appeal regarding the clause "Share of profits from the subsidiary company for the years 2016 and 2017", his appeal lies in the fact that the investee company is a Saudi company that files its declarations and pays zakat for it and adopts the equity method in registering the investment. Whereas Article (4) Clause (II) Paragraph (4a) of the Zakat Collection Regulation issued by Ministerial Decision No. (2082) dated 01/06/1438H stipulates that "The following shall be deducted from the zakat base:" 4- (A): investments in establishments inside the Kingdom - in partnership with others - if those investments are subject to the collection of zakat under this regulation, and if the investment in those establishments is not subject to collection, it shall not be deducted from the base." Article 20, paragraph 3, also stipulates: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related



to the case and the information available to it." based on the above, since there is no dispute that the investments have been zakatized in the investee companies, and the dispute is limited to their treatment in the investee company in order to avoid double zakat and double deduction, whereas, there are two zakat treatments for equity method investments in calculating the zakat base, as the first treatment is to deduct the end-of-term balance of the investments from the base (which includes the company's share of the subsidiary's net profit) without adjusting the net profit by the company's share of the subsidiary's net profit to avoid double deduction, and the other treatment is to deduct the end-of-term balance of the investments after reducing it by the value of the company's share of the subsidiary's net profit and reducing the there is no difference in the two treatments only if the zakat threshold is the largest and zakat is calculated accordingly, but if zakat is calculated on the adjusted net profit, there is a difference in the two treatments if the zakat threshold is calculated on the adjusted net profit claiming that the company's share of the subsidiary's net profit is included in its profits, in which case there is a double deduction. Whereas, upon reviewing the Taxpayer's attached declaration, the value of the discounted investments is not clear because the Taxpayer included discounts in another clause and did not clauseize them, and whereas investments are recorded using the equity method, and the end-of-term balance of the investment includes the company's share in the net profit of the year in the invested companies, which leads the Circuit to partially accept the Taxpayer's appeal and amend the decision of the Adjudication Circuit on this clause by excluding the zakatable profits representing the company's share in the net profit of the year in the invested company from the profits of the invested company (the Taxpayer) to avoid bending, and deducting the related investments, excluding them from the zakatable income, from the zakatable income of the invested company, to avoid bending, and excluding from the zakatable income of the invested company the related investments.

Regarding the Taxpayer's appeal on the remaining clauses in the case. Whereas there is no fault in the court's adoption of the grounds for the contested decision without adding to them, since it deemed that those grounds were sufficient and did not require the addition of any new information, because in upholding it on the grounds set out in those reasons, it confirmed that it did not find in the objections raised against the decision anything that warranted a response beyond what was contained in those reasons. That being the case, and since it has been established that the decision under appeal in the dispute concerning the contested clauses is consistent with the valid reasons on which it is based and sufficient to support its ruling, as the court that issued it examined the substance of the dispute and reached the conclusion set out in its ruling. This court did not find anything that would warrant correction or comment in light of the arguments



presented before it. This court therefore rejects the appeal and upholds the decision of the court of first instance in its entirety with regard to the remaining clauses of the claim, based on the reasons given.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/company ..., commercial registration (...), unique number (...), and the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the first circuit regarding violations and disputes of income tax in Jeddah Province with number (IZ)-2022-2080) issued in case number (Z-2021-57374) related to the Zakat assessment for the years from 2016AD to 2018AD.

Secondly: On the Merits:

1- The Taxpayer's appeal is rejected, the authority's appeal is accepted, and the decision of the division regarding clause (employee benefits not related to activity in the financial statements for the year 2017) is annulled.

2- The Taxpayer's appeal is partially accepted, and the decision of the division regarding clause (profit share from the subsidiary for the years 2016 and 2017) is amended.

3- The Taxpayer's appeal is rejected, and the decision of the division regarding clause (home ownership program for the years 2016, 2017AD, and 2018) is upheld.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-179760

Case No. I-2023-179760

Keywords:

Zakat – Adjustment to net profit – salary expenses and housing allowances – the Taxpayer's appeal is accepted.

Summary:

The Taxpayer's objection to the decision of the third division regarding violations and disputes of income tax in Riyadh with number (IFR-2022-6782) , and where its appeal is on clause (employee benefits for the years 2016, 2017, and 2018) because the differences arose as the summary of employee benefits submitted to the authority from which the authority extracted the amounts to calculate the difference does not include the amendment made in the general ledger recorded under "employee benefits" in the tax declaration, and clause (bad debts) for having paid a financial penalty equivalent to the daily value of the contract for each day of delay, and clause (salary expenses and housing allowances for the years 2015 and 2016) because the clause represents an actual expense that is deductible for tax purposes. And it has been established to the appellate committee by reviewing the documents attached to the case file that the Taxpayer attached a certification from the legal accountant regarding salaries and wages for the years 2015 and 2016, and it is clear that they represent actual expenses related to the activity. Consequently; the Taxpayer's appeal is accepted and the decision of the division is canceled.

Document:

- Article (13) of [The Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 15/01/1435 AH.](#)
- Article (9/1) of [The executive regulations of the income tax law issued by the decision of His Excellency the Minister of Finance No. \(1535\) dated 11/06/1425 AH](#)



- Article (10/6) of [The executive regulations of the income tax law issued by the decision of His Excellency the Minister of Finance No. \(1535\) dated 11/06/1425 AH](#)

Facts:



The appeal filed on 23/02/2023, from/... Passport number (...) As a statutory representative of the appellant company under the partners' decision, and the appeal filed on 26/02/2023 AD, from the Zakat, Tax and Customs Authority, against the decision of the Third Circuit for the Adjudication of Income Tax Violations and Disputes in Riyadh City (IFR-2022-6782) issued in Case No. (2021-87511-I) regarding the Zakat assessment for the years 2015 to 2018 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: Acceptance of the plaintiff's objection/ Company ... , Commercial Register No. (...) On the decision of the Defendant/Zakat, Tax and Customs Authority procedurally.

Secondly: On the merits:

1-Modification of Defendant's decision with respect to the loss carryforward exclusion clause

2-Modify the Defendant's decision with respect to the delay penalty clause

3. Reject all other objections

As this decision was not accepted by the Taxpayer (Company ...), he submitted an appeal list, which was reviewed by the Circuit, as the Taxpayer's appeal is based on the clause (salary expenses and housing allowances for the years 2015, 2016 and 2018): a- Regarding (2015 and 2016), the Taxpayer explains that the salaries and wages clause represents an actual deductible expense for tax purposes, and it is natural that differences arise between the salaries and benefits included in the social insurance certificate and the actual salaries and housing allowance declared by the company, as the salary and housing allowance expenses declared in the company's tax returns consist of the basic salary, housing allowance and other allowances that represent normal necessary expenses for the activity. Furthermore, we attach in Annex 2 a sample of supporting documents to further emphasize the provisions of Article 9 (1) of the Executive Regulations of the Income Tax Law that salaries and wages are considered actual expenses incurred for the purpose of activity in realizing taxable income and are not of a capital nature. Regarding the clause (Employee Benefits for the years 2016, 2017 and 2018), the Taxpayer explains that the differences arose because the summary



of employee benefits submitted to the Authority, from which the Authority extracted the amounts to calculate the difference, does not include the adjustment made in the general ledger and recorded under "Employee Benefits" in the tax return. Moreover, the Company believes that the Authority attempted to reconcile the two teams' information without requesting a reconciliation, without requesting and examining the analytical statement of employee benefits on the return, and without assessing whether the summary of other employee benefits included the information recorded as "employee benefits" on the tax return. In addition to the above, a sample of supporting documents is attached in Appendix C to further emphasize the provisions of Article 9 (1) of the Executive Regulations of the Income Tax Law that employee benefits are considered actual expenses granted in accordance with the company's business policy and incurred for the purpose of the activity in generating taxable income and are not of a capital nature. Regarding the bad debts clause, the Taxpayer explains that the dismissal decision did not take into account the partial acceptance by the Authority and the amounts previously partially accepted, totaling (469,124) euros for aircraft Nos. 9903 and PS02. We also clarify that the Authority indicated a partial acceptance of the amount of (469,124) riyals, while these amounts are in euros according to the letters of the Air Force and according to the concluded contracts, which require payment in euros to the company and not in riyals. As for the other aircraft, and what the Circuit's decision indicated that the payment receipt submitted by the contracting authority is dated 2/5/2017AD, while the year of the dispute is 2016, we explain the following: in 2016, the company received several letters from the Royal Air Force stating that contractual penalties were imposed on the company for exceeding the time period specified in the contract, delaying the delivery of the aircraft and not complying with the terms of the contract, which resulted in the payment of a financial penalty equivalent to the daily value of the contract value for each day of delay. At the beginning of 2016, the Company formed a provision (Note (3) to the 2016 financial statements) in the amount of SAR (5,469,491), as the Company has an expectation that these penalties will occur and that there will be delays in the delivery of certain tasks. At the end of 2016, the company received letters from the Air Force confirming the occurrence of these fines and the company's liability for them. The company immediately wrote off this provision partially as the company confirmed the accrual of these expenses, which means that these fines should be charged to the results of the year as expenses instead of recording them as a provision in the amount of (EUR 938,248) equivalent to (SAR 3,958,648) the amount of the amounts written off as shown in the financial statements and supplementary notes. It is clear from the letters sent that these fines accrued to the company from the date these letters were issued in 2016, and that the reason for reissuing these invoices in 2017 was based on the request of the Air Force to amend the previously sent invoices with



the accrued fines, as the invoices were reissued after deducting the fines that amounted to (10%) according to the letter of His Excellency the Air Force Commander in charge, which denies that these fines are for the year 2017 and that their reissue was for the purposes of amending the fines clause. The Authority did not argue that these amounts relate to later years (2017) and are not related to the disputed year 2016 AD, so these allegations are considered recent defenses. In addition, these penalties were not recognized in 2017 AD, and the inadmissibility of their deduction in 2016 deprives the company of its right to deduct these penalties. We confirm that all letters between the company and the Royal Saudi Air Force, which relate to the fines, as well as all invoices related to these fines, have been submitted showing the deduction of these fines from the amounts owed to the company, in addition to that these expenses do not represent bad debts written off, and that they represent contractual fines resulting from the contract between the company and its client, the Ministry of Defense and the Royal Saudi Air Force." according to Article 13 (f) of the Tax Law and Article 10 (6), non-deductible fines or penalties paid or payable to any entity in the Kingdom, such as traffic violations and violations for damaging public facilities, do not include financial penalties resulting from the violation of contractual terms, such as penalties for delayed implementation or poor implementation, which may be deducted provided they are documented by the Taxpayer's contracting entity and declared as part of the Taxpayer's Revenue in the year they are recovered. With regard to the clause (delay penalty), the Taxpayer explains that the company would like to object to the Authority's action of imposing a delay penalty on the additional income tax liability arising from the above assessments. In this regard, the company would like to provide the following clarifications for your information Paragraph (a) of Article (77) of the Income Tax Law and Article (68) of the Executive Regulations stipulates paragraph (a) of Article (77) of the Income Tax Law and Article (68) of the Executive Regulations provide for the imposition of a delay penalty in the event of delay in the payment of tax, withholding tax and accelerated tax when it becomes final, whether after the Taxpayer's acceptance of the assessment or the conclusion of the appeal procedures, the delay penalty shall be imposed from the date on which the obligation becomes final according to the regulations, and he demands that his appeal be accepted and that the decision of the Adjudication Circuit be reversed and canceled. This decision was not accepted by the appellant (Zakat, Tax and Customs Authority), so it submitted a list of appeals, which was reviewed by the Circuit, where its appeal is based on the (delay penalty) clause. The Authority explains that the delay penalty was imposed on tax differences not paid within the statutory deadline based on paragraph (a) of Article 77 of the Income Tax Law, which stipulates that: "In addition to the penalties stipulated in Article 76 of this Law and in paragraph (b) of this Article, the Taxpayer shall pay a late payment penalty of one percent (1%) of the unpaid tax for



every thirty days of delay, which includes the delay in paying the tax required for withholding and accelerated payments and is calculated from the date the tax is due to the date of payment", as well as based on paragraph (1/b) of Article 68 of the Executive Regulations of the Income Tax Law, which states: "In addition to the fines mentioned in the previous article, 1% of the unpaid tax shall be added for every thirty days of delay in the following cases, including those mentioned in paragraph: - b- Delay in paying the tax due under the interest assessment" and since the penalty is consequential, and given the Authority's appeal on the above clause, it maintains the correctness of its procedure in imposing a delay penalty on the unpaid tax differences. She requests that her appeal be accepted and the decision of the Adjudication Circuit be reversed and annulled.

On Wednesday, 05/06/2024 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 conferencing in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08/04/1445AH 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 reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, 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 means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the subject of the Taxpayer's appeal on the clause (salary expenses and housing allowances for the years 2015, 2016 and 2018): a- With regard to (2015 and 2016), where the Taxpayer's appeal is that the clause represents an actual deductible expense for tax purposes, and based on paragraph (1) of Article (9) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425H, which stipulates the following: (a) The Taxpayer's appeal is based on paragraph (1) of Article (9) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425H: "The expenses that may be deducted to determine the taxable income are: 1- All ordinary



and necessary expenses incurred to achieve taxable income, whether paid or accrued, provided that the following controls are met: A- It must be an actual expense supported by documentary evidence or other proof that enables the authority to verify its validity. B- It must be related to achieving taxable income. C- It must be related to the tax year D- It must not be of a capital nature." Therefore, it is clear that the dispute lies in the existence of differences between what was declared and the social insurance certificate. The certificate of the General Organization for Social Insurance is considered one of the important evidences issued by a third party and is used to verify the fairness of salaries and wages and similar matters. Upon reviewing the documents attached to the case file, it became clear to the circuit that the Taxpayer attached a certification from the legal accountant regarding salaries and wages for the years 2015 and 2016, and it appears that they represent actual expenses related to the activity, which leads the circuit to accept the Taxpayer's appeal and cancel the decision of the circuit regarding this clause.

With regard to the Taxpayer's appeal on the clause (employee benefits for the years 2016, 2017 and 2018), and where the Taxpayer's appeal lies in the fact that the differences arose due to the fact that the summary of employee benefits submitted to the Authority from which the Authority extracted the amounts to calculate the difference does not include the amendment made in the general ledger and recorded under "employee benefits" in the tax return, and based on paragraph (1) of Article (9) of the executive regulations of the Income Tax Law issued by Ministerial Resolution No. (1535) dated 11/06/1425H, which stipulates the following: "The expenses that may be deducted to determine the taxable income are: 1- All ordinary and necessary expenses incurred to achieve taxable income, whether paid or accrued, provided that the following controls are met: A- It must be an actual expense supported by documentary evidence or other proof that enables the authority to verify its validity. B- It must be related to achieving taxable income. C. It must be related to the tax year. D. It must not be of a capital nature." Based on the above and where the Circuit found that the dispute lies in the difference in employee benefits from the disclosure provided by the Taxpayer and the employee benefits as stated in the return. After reviewing the case file and the defenses and documents it contained, it was found that the Taxpayer attached a certificate of approval of the labor regulation from the Ministry of Labor and submitted the approved labor regulation, and the workers' contracts include the right of workers to receive these bonuses and benefits such as education, transportation and travel costs, and the Taxpayer stated that the employee benefits submitted to the Authority and from which the Authority extracted the amounts to calculate the difference do not include the amendment made in the general ledger and recorded under "employee benefits" in the tax return. The Taxpayer provided the Circuit with a detailed statement explaining the differences in dispute, and the Circuit



found that this clause has completed its statutory elements and is therefore considered a deductible expense, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding this clause.

With regard to the Taxpayer's appeal on the bad debt clause, where the Taxpayer's appeal is to pay a financial penalty equivalent to the daily value of the contract value for each day of delay, and based on Article (13) of the Income Tax Law on non-deductible expenses, the Taxpayer is required to pay a financial penalty equivalent to the daily value of the contract value for each day of delay: "The following expenses may not be deducted: f. Financial fines or penalties paid or payable to any entity in the Kingdom, except for amounts paid for breach of contractual terms and obligations." Based on paragraph (6) of Article (10) of the Executive Regulations of the Income Tax Law on: "6- Fines or financial penalties paid or payable to any entity in the Kingdom, such as traffic violations and violations of damage to public facilities. As for the financial penalties resulting from the violation of contractual terms, such as penalties for delayed implementation or poor implementation, they may be deducted provided that they are documented by the Taxpayer's contracting authority and declared as part of the Taxpayer's Revenues in the year they are recovered." Based on the above, the Circuit found that the dispute lies in the Authority's failure to accept the deduction of bad debts, and with reference to the case file, it became clear to the Circuit that the clause consists of contractual penalties for exceeding the time period specified in the contract, delaying the delivery of the aircraft and failing to comply with the terms of the concluded contract. Upon reviewing the submitted documents, the Circuit found that the Authority accepted the deduction of SAR 469,124, and that the Taxpayer argued that this amount is in Euros and not in Riyals. With reference to the attached documents, the amount is in Euros and not in Riyals, so the Circuit decided to accept the Taxpayer's appeal by converting the amount to Saudi Riyals. Since the fines are the result of delays in the delivery of airplanes to ... After the implementation of the Comprehensive Aircraft Umrah Program with different percentages depending on the duration of the delay according to the schedule of payments and penalties attached to the contract. With reference to the financial statements for the year 2016AD under Note (3), the Circuit found an account of write-offs amounting to (3,958,648 SAR), which is equivalent to (938,248 euro), which is equivalent to SAR (3,958,648), the amount of write-offs. Paragraph (6) of Article (10) also stipulates that delay penalties may be deducted provided that they are documented by the contracting party, and since the Taxpayer attached documents proving these contractual penalties, the Circuit concludes that the Taxpayer's appeal is accepted and that the decision of the Dispute Resolution Circuit regarding this clause is annulled.



With regard to the Taxpayer's and the Authority's appeal on the (delay penalty) clause, and based on the text of paragraph (a) of Article 77 of the Income Tax Law promulgated by Royal Decree No. M/1 dated 15/01/1425 AH, which stipulates the following: "In addition to the penalties stipulated in Article 76 of this Law and in paragraph (b) of this Article, the Taxpayer shall pay a late payment penalty of one percent (1%) of the unpaid tax for every thirty days of delay, which includes delays in paying the tax required for withholding and accelerated payments, calculated from the date the tax is due to the date of payment." Based on paragraph (1) of Article (68) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425H, which stipulates the following: "In addition to the fines mentioned in the previous article, 1% of the unpaid tax shall be added for every thirty days of delay in the following cases: b- Delay in paying the tax due under the Authority's assessment." based on the text of paragraph (3) of Article (67) of the Executive Regulations of the Income Tax Law: "Unpaid tax means the difference between what the Taxpayer paid on the statutory date and the tax payable under the provisions of the Law, including the Adjustment made by the Circuit that have become final as stated in paragraph (2) of Article 71 of these Regulations, including cases that are disputed, where the penalty is calculated from the date of the statutory deadline for filing the return and payment." Based on the above, and the Circuit's review of the case file and the defenses and documents it contains, and since the delay penalty is calculated from the end of the deadline for filing the return to the date of payment of the due tax arising under the application of the provisions of the Law and the Adjustment made by the Authority, and since the dispute between the parties is a disagreement therefore, the Circuit concludes to modify the decision of the Adjudication Circuit by imposing the delay penalty from the due date on the clauses in which the Taxpayer's objection was rejected, and the delay penalty on the clauses in which the Authority's decision was canceled due to the loss of the original imposition of the tax.

With regard to the Taxpayer's and the Authority's appeal on the remaining clauses, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting them with the content of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons as the issuing circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this circuit concludes to reject the appeal of the Taxpayer and the Authority and to uphold the decision of the Adjudication Circuit in its conclusion in this clause, bearing in mind its reasons.



Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company Commercial registration number (...), Unique number (...), and the Zakat, Tax and Customs Authority, against the decision of the third circuit regarding violations and disputes of income tax in Riyadh with number (IFR-2022-6782) issued in case number (2021-87511-I) related to the Zakat assessment for the years from 2015 to 2018.

Secondly: On the Merits:

1- Reject the Taxpayer's appeal and uphold the decision of the circuit regarding clause (unrealized currency exchange profits for the years 2016 and 2018).

2- Regarding the Taxpayer's appeal on clause (salary expenses and housing allowances for the years 2015, 2016, and 2018):

A- Accept the Taxpayer's appeal and cancel the decision of the circuit regarding (the years 2015 and 2016).

B- Reject the Taxpayer's appeal and uphold the decision of the circuit regarding (the year 2018).

3- Accept the Taxpayer's appeal and cancel the decision of the circuit regarding clause (employee benefits for the years 2016, 2017AD, and 2018).

4- Accept the Taxpayer's appeal and cancel the decision of the circuit regarding clause (bad debts).

5- Reject the Taxpayer's appeal and uphold the decision of the circuit regarding clause (social insurance expense).

6- The Taxpayer's appeal was rejected, and the decision of the Appellate Committee regarding the clause (the adjusted assessment did not take into account the amount paid with the declaration in 2017).

7- The appeals of both parties were rejected, and the decision of the Appellate Committee regarding the clause (carried forward losses) was upheld.

8- The decision of the Appellate Committee regarding the appeals of both parties concerning the clause (late payment penalty) was amended.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. Z-171043-2023

Case No. Z-171043-2023

Keywords:

Zakat - Adjustments to Net Profit - Unsupported Salary Expenses - Taxpayer Appeal Accepted

Summary:

The Taxpayer's objection to the decision of the First Circuit to settle income tax violations and disputes in the city of Dammam No. (IZD-2022-2499) regarding the Zakat assessment for 2015, where the Taxpayer's appeal lies on the clause (unsupported salary expenses) where the Authority made an additional adjustment of (SAR 18,815,166) based on the social insurance certificate, and the Taxpayer explains that these differences are due to the method of calculating salaries that include additional allowances such as housing allowance and communication allowance in addition to the basic salaries. The Taxpayer asks the committee to accept these expenses as part of the Zakat deduction. The Authority added an amount of (SAR 9,583,471) as a difference in professional fees to the accounting profit, and the Taxpayer explains that there is a material error in the financial statements in Arabic, where the amount was incorrectly included. The correct amount is (SAR 10,879,731) based on the English-language financial statements. The Taxpayer supports his objection with a report from a chartered accountant that confirms the validity of the amount. The Appellate Committee found that the unsubstantiated salary expenses clause showed that the difference represented other expenses and allowances for employees. Professional fees expense variance, no professional fees expense variance, and a professional fees expense deduction. The implication is that the Taxpayer's objection is accepted

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)



- Paragraph (8) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (1) of Article (5) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (2) Article (6) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:



The appeal was heard on: 2023/01/23, from/... Identity number (...) In his capacity as the statutory representative, on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in the city of Dammam No. (IZD-2022-2499) issued in Case No. (Z-73921-2021) related to the 2015 Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

Rejecting the plaintiff's objection in all the clauses at issue.

This decision was not accepted by the Taxpayer (...), so he submitted a list of appeals, which was reviewed by the Circuit, where his appeal lies with regard to the clause (unsupported salary expenses). The Taxpayer explains that the Authority amended it by adding differences in the amount of (18,815,166) based on the salaries according to the attached insurance certificate. According to the company's statement, the basic salaries and housing allowance subject to social insurance are estimated at (71,457,891). The difference in the value of the basic salaries according to the company's records and according to the social insurance is due to the following: 1- The company's accounting policy in calculating basic salaries, as the basic salaries in the company's accounts include other allowances such as communication allowance and other allowances, and these allowances constitute differences estimated at four million and five hundred thousand in addition to the housing allowance, and the salaries recorded and subject to insurance are only basic salaries and housing allowance. 2- Employees by contract in the amount of two million and seven hundred thousand riyals, which is a cost related to employees who were contracted during the year in question, who are not registered in insurance or on the company's sponsorship, under contracts with



companies or suppliers, a sample of which can be shared. Accordingly, the Company confirms that the above payroll expense reflected in the attached wage and salary analysis is an actual activity-related expense incurred by the Company during the above-mentioned year. It is also acceptable as an expense from an accounting and Zakat perspective, as stipulated in paragraph (1) of Article 5 of the Zakat Regulations for deductible expenses, in accordance with the provisions of paragraph (1) of Article 5 of the Zakat Regulations, in this regard, the company points out that salaries are an internal expense that is supported by internal disbursement authorizations and bank transfers according to the company's bank accounts and in accordance with the Wage Protection Law, and the company has submitted salary payment documents to the Authority, so what are the documents required by the Authority to prove this expense? In addition, the salary expense is reviewed by the external auditor who approved the financial statements and reviewed the salaries as one of the business requirements, so the company is currently in the process of issuing a salary approval certificate from an external auditor and will attach it to the case file. The Taxpayer explains that according to the company's statement, a professional fees expense was charged during the year 2015AD in the amount of (1,296,260) riyals, as detailed in the attached professional fees analysis, which is consistent with the financial statements and the trial balance. The Taxpayer also indicates that he was unable to know or reach the amount added by the Authority, and upon reviewing the financial statements in Arabic and English, it was found that there is a material error in the lists in Arabic by listing the expense as (10,879,731) riyals in error and the correct amount as attached to the lists is (1,296,260) riyals, he attached a copy of the explanation of the financial statements to verify the material error referred to and also attached the financial statements in English with the financial statements attached to the lawsuit for confirmation, and added that the company is currently working on issuing a statement from the external auditor to confirm the material error referred to, and the Taxpayer also attached the financial statements for the year 2016AD through which the value of the legal fees expense for 2015 is clear to support his point of view. With regard to the clause (adding dividends), the Taxpayer explains that according to the company's statement and based on the attached documents, the declared dividends in the amount of (81,000,000) are only the owner's withdrawals made during the year as shown in the attached bank statement, and at the end of the year and based on the attached board of directors meeting, a decision was made to approve the members of the company's board of directors to consider the partner's withdrawals as dividends in the amount of (81,000,000), this means that the amounts came out of the company's liability before the turn of the year, and it is not permissible to zakat it legally and legally, as it is an actual profit distribution and the award of the discount in accordance with the provisions of paragraph (8) of clause (1) of Article (4) of the



Executive Regulations for the Collection of Zakat issued by the Minister of Finance Resolution No. (2082) dated 01/06/1438 H. The Taxpayer attaches the Taxpayer's bank statement for the year is attached, and the distributions are marked in yellow color to confirm that they have been discharged from the company's liability, and the company is currently preparing the documents related to the distributions from the bank statements related to these distributions, in addition to all the documents supporting these distributions. Accordingly, the Taxpayer requests that his appeal be accepted and that the decision of the Adjudication Circuit on the clauses under appeal be reversed.

On Wednesday, February 28, 2024, 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 conferencing 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: 21/04/1441AH 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 reviewing the case documents and the appeal list submitted by the Taxpayer, 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 formally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

As for the Taxpayer's appeal on the clause (unsupported salary expenses), the Taxpayer's appeal lies in the fact that the Authority amended it by adding differences in the amount of (18,815,166) riyals based on the salaries according to the insurance certificate, and based on paragraph (1) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution (2082) dated 1/6/1438H, which states that: "All ordinary and necessary expenses required for the activity shall be deducted whether they are paid or accrued, leading to the net result of the activity, provided that the following controls are met: A- It must be an actual expense supported by documentary evidence or other indications that enable the authority to verify its validity, even if related to previous years. B- It must be related to the activity and not related to



personal expenses or other activities. C- It should not be of a capital nature, and in the case of including an expense of a capital nature within the expenses, the result of the activity is adjusted and the fixed assets are included and consumed according to the statutory rates. Based on Article (6), paragraph (2) thereof, regarding the expenses that may not be deducted, which stipulates that "Expenses for which the Taxpayer is unable to substantiate the expenditure with supporting documents or other evidence." article 20 (3) of the Constitution states that: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." according to the above, the General Organization for Social Insurance certificate is one of the important evidence issued by a third party and is used to verify the fairness of salaries, wages and the like charged to the accounts, and by reviewing the case file, it appears that the Authority adjusted the Taxpayer's business results after comparing the salaries in the financial statements with the salaries shown in the social insurance certificate, and with reference to the documents attached to the case file where the Taxpayer attached a certificate from the legal accountant represented by an analytical statement for the year 2015AD, which shows that the salaries shown in the financial statements for 2015 correspond to the social insurance certificate, and

With regard to the Taxpayer's appeal on the clause "Adding a professional fee expense difference to the accounting profit", and where the Taxpayer's appeal lies in the fact that the Authority added a professional fee expense difference of (9,583,471) SAR to the accounting profit, and based on paragraph (1) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution (2082) dated 1/6/1438H, which stipulates: "All ordinary and necessary expenses required for the activity shall be deducted whether they are paid or accrued, leading to the net result of the activity, provided that the following controls are met: A- It must be an actual expense supported by documentary evidence or other indications that enable the authority to verify its validity, even if related to previous years. B- It must be related to the activity and not related to personal expenses or other activities. In the event that an expense of a capital nature is included in the expenses, the result of the activity shall be adjusted and the fixed assets shall be included and amortized in accordance with the statutory rates." upon reviewing the case file, it is clear that the dispute is limited to the Authority's action to add a difference of SAR (9,583,471) in professional fees to the accounting profit due to the fact that the professional fees expense as per the financial statements amounted to SAR (10,879,731) and the professional fees expense recognized by the



Taxpayer amounted to SAR (1,296,260), with reference to the attached documents, the Taxpayer attached a letter of amendment from the Chartered Accountant dated 2/7/1444 AH corresponding to 24/1/2023 AD, in which he agrees with the Taxpayer that there is a typographical error regarding the expenses of legal and professional fees in Note No. (18) in the Arabic version of the Taxpayer's financial statements for 2015, as the correct amount for legal and professional fees is (1,296,260) SAR and not (10,879,731) SAR, noting that the amount is correctly shown in the English version of the Taxpayer's financial statements for the year 2015 AD. Accordingly, there is no difference for professional fees expense and the amount of professional fees expense is deducted as previously explained, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit on this clause.

With regard to the Taxpayer's appeal on the clause (adding dividends), and where the Taxpayer's appeal lies in the issuance of a decision to approve the members of the company's board of directors to consider the partner's withdrawals as dividends as the amounts left the company's liability before the turn of the year, and based on paragraph (8) of clause (I) of Article (4) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, which stipulates the following: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8- The balance of carried forward profits from previous years at the end of the year." based on the above, and upon reviewing the case file and the defenses and documents it contains, it is clear that the Taxpayer attached the partners' decision to the dividends of SAR (81,000,000) and the bank statements proving that the funds left the Taxpayer's estate before the turn of the lunar calendar. According to the basic Shari'ah rule, zakat is only due on funds that meet the condition of full ownership, therefore, given the Taxpayer's submission of documents supporting his viewpoint, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit on this clause.

With regard to the Taxpayer's appeal on the clause "Sales and Promotion Commission Differences", the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons do not require any new information to be provided, because in supporting the decision with the content of these reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and since this is the case and it is proven that the decision under appeal regarding the disputed clauses was consistent with the valid reasons on which it was based and sufficient to carry its judgment as the issuing circuit scrutinized the dispute and reached the conclusion it reached in the operative part of the decision, and as this circuit did not notice any



reason to appeal or comment on it in light of the defenses raised before it, this circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in its conclusion on the sales and promotion commission differentials clause, in accordance with its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally, from the applicant/ ... Commercial Register No. (...), Unique number (...), against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam City No. (IZD-2022-2499) issued in Case No. (Z-73921-2021) related to the Zakat assessment for 2015.

Secondly: On the Merits:

- 1- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (unsupported salary expenses).
- 2- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (differences in sales and promotion commissions).
- 3- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause "Adding a professional fee expense difference to the accounting profit".
- 4- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (adding dividends).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024- 171810

Case No. Z-2023-171810

Keywords:

Zakat - Adjustments to net profit - Amortization of goodwill - Acceptance of the Authority's appeal -
Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority's objection to the decision of the first circuit regarding violations and disputes of income tax in Jeddah Governorate number (IZJ-2022-2561), where the authority's appeal concerns the clause (investment profits) because the Taxpayer invests at a rate of (5%) in the Modern Company for Selling Cars and Equipment Limited on a cost basis rather than equity, and that the disputed amount is merely the Taxpayer's share of the distributions, and the clause (provision for doubtful debts) for the authority's correction of the treatment by adding the component to net profit and treating the amount used in the additions to the base, and the Taxpayer's appeal concerns the clause (amortization of goodwill) because the authority added goodwill amortization expenses of (500,000) riyals to the book net profit while simultaneously deducting the same amount from the net investment from the Zakat base. The appellate committee confirmed that the Taxpayer submitted the audited financial statements approved by a certified accountant for the year 2015AD, and upon reviewing note number (6), it was found that the goodwill amount of (5,000,000) riyals was recorded, which represents the goodwill paid in excess of the actual cost of the company's share in the invested company's capital. The result of that; acceptance of the authority's appeal and acceptance of the Taxpayer's appeal.

Document:

- Paragraph (9, 4, 3) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal filed on 26/01/2023 from ..., ID No. (...) Was considered as an agent under Agency No. (...) On behalf of the appellant company, the Zakat, Tax and Customs Authority (ZTCA), on the decision of the First Circuit of Income Tax Violations and Disputes in Jeddah Governorate (IZJ-2022-2561) issued in Case No. (63938-2021-Z) related to the 2015 Zakat assessment, in the case filed by ... Ltd. Vs. The Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

- 1- Accepting the plaintiff's objection to the amortization difference clause.
- 2- Accepting the claimant's objection to the investment profits clause.
- 3- Accepting the plaintiff's objection to an clause of profit from the sale of property and equipment (cars).
- 4- Accepting the plaintiff's objection to the fixed assets clause.
- 5- Rejecting the plaintiff's objection to the short-term obligations clause.
- 6- Accepting the plaintiff's objection to the allowance for doubtful debts.
- 7) Reject the plaintiff's objection to the goodwill amortization clause.

This decision was not accepted by the Taxpayer (... Company).the Taxpayer explains that he has attached the supporting documents and emphasizes that the Zakat, Tax and Customs Authority added goodwill depreciation expenses in the amount of 500,000 riyals to the net book profit, while deducting the same amount from the net investment (Note 6),at the same time, it deducted the same amount from the net investment from the zakat base (Note 6 of the financial statements), and this procedure will lead to the addition of goodwill twice, once in the net book profit and the other by reducing it from the investment, and for the equation to be straight from the legal and accounting point of view, goodwill amortization expenses must be added to the amount of the investment deducted from the zakat base.

This decision was not accepted by the appellant (Zakat, Tax and Customs Authority), so it submitted a list of appeals, which was reviewed by the Circuit, where its appeal lies in relation to the clause (profits of investments), the Authority clarifies that it did not accept the removal of the impact of profits on investments because the Taxpayer invests according to fair value, so the profits were recognized in the income statement and not accepted from the adjustments to net profit, and the Authority also found that the Taxpayer invests



(5%) in Modern Company for the sale of cars and equipment on credit (Ajel) Ltd. With a Unique number (...) It adds that the profits of investments amounting to SAR (3,537,799) are only the Taxpayer's share of the distributions, according to the journal entry of these profits, and adds that the investment is one of the deductions of the Zakat base, so the profits resulting from these investments are one of the components of the base by adding them from the Revenues to reach the net profit, and the Authority emphasizes that no addition or deduction except by text, and Article 4 in its clauses (I) and (II) specified the elements to be added to the base and the elements that are deducted from the Zakat base.

Regarding the clause (allowance for doubtful debts), the Authority explains that after reviewing and reviewing the movement of the allowance according to the trial balance provided by the Taxpayer, it requires a) adding the component allowance to the net profit in the amount of (4,529,334) riyals, and b) deducting the user from the base by taking the first period balance minus the user $(3,392,875 - 4,797,172) = (1,404,297)$ riyals, so that the net addition to the base is (3,125,037), therefore, the Authority believes that the treatment should be corrected by treating the component by adding it to the net profit and treating the user in the bowl additions based on the provisions of Article (6) Paragraph (6) of the Executive Regulations for Zakat Collection and Article (4) Clause (I/9) of the Regulations, and the Authority maintains the validity and soundness of its procedure and requests that its appeal be accepted and that the decision of the Adjudication Circuit on the clauses subject to its appeal be reversed.

On Thursday, 08/02/2024, 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: 21/04/1441AH 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 reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, 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 means that



the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits of the Authority's appeal on the clause (Investment Profits), wherein the Authority's appeal lies in the fact that the Taxpayer invests 5% in the Modern Company for the Sale of Cars and Equipment on Postponed Terms Limited by the cost method and not equity and that the amount in dispute is only the Taxpayer's share of the distributions, and based on the provisions of paragraph (4/a) of Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 1/6/1438H, on: "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." with reference to the attached case file (memorandum in response to the Authority's appeal), the memorandum of association of the modern company for the sale of cars and equipment on a postponed basis, and Article (4) shows that the percentage of the shareholding of the company ... By reviewing Note 16 of the financial statements on investments, it is clear that these investments represent the company's share of the profits of the investee company, and this does not affect the Taxpayer's indication that they are zakat in the new company, as he did not provide evidence to support this, which concludes the Circuit to accept the Authority's appeal and cancel the decision of the Circuit of Adjudication.

Whereas, regarding the Authority's appeal on the clause (Allowance for Doubtful Debts), and where the Authority's appeal lies in its correcting the treatment by treating the component by adding it to the net profit and treating the user in the vessel additions, and based on paragraph (9) of clause (I) of Article (4) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 H, which stipulates that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 9- Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting the user during the year." with reference to the case file and the defenses and documents it contains, it is clear that the Taxpayer submitted a statement of the movement of the allowance account for doubtful debts, indicating the value of the provisions at the beginning of the period in the amount of (3,392,874) riyals and the debit balance during the year (bad debts) (4,797,171 riyals) and the balance at the end of the period in the amount of (3,125,037) riyals (4,797,171) riyals and the balance at the end of the period in the amount of (3,125,037) riyals, and by calculating the credit movement (formed during the year) in the amount of (4,529,334) riyals, therefore, according to the above, it is clear to the Circuit that the first



period balance of the allowance for doubtful debts in the amount of (3,392,874) riyals, 392,874 riyals was paid in full during the year (as the user amounted to (4,797,171) riyals and a difference of (1,404,297) riyals, thus not adding the provision to the Zakat base and adding the component of the provision to the net profit after taking into account the deduction of the user from the provisions in excess of the first period balance $(4,529,334 - 1,404,297 = 3,125,037)$, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit.

Whereas, regarding the Taxpayer's appeal on the clause (depreciation of goodwill), and where the Taxpayer's appeal lies in the fact that the Authority added goodwill depreciation expenses in the amount of SAR (500,000) to the net book profit and at the same time deducted the same amount from the net investment from the Zakat base, and based on what is stated in paragraph (3) of Article 4, Section 2 of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438AH, which stipulates that: Second: The following shall be deducted from the Zakat base: Intangible assets such as goodwill and patents." And in reference to the decision of the appellate committee number (IR-2023-47727) issued in case number (47727-2021-Z) and upon reviewing the case file and the defenses and documents included, it was found that the Taxpayer submitted the audited financial statements approved by a certified accountant for the year 2015AD, and upon reviewing note number (6), it was found that the goodwill amount of (5,000,000) riyals was recorded, which represents the goodwill paid in excess of the actual cost of the company's share in the invested company's capital and an amount of (500,000) riyals as net goodwill, therefore, based on the appellate decision mentioned above for the same Taxpayer issued for a previous year (2010) which included the Taxpayer's appeal regarding the goodwill clause and its amortization expenses, which ended in favor of the Taxpayer by accepting his appeal to deduct the goodwill amount and its amortization expense as it is established according to the audited financial statements approved by a certified accountant, therefore, since the Taxpayer's appeal is similar to the grounds of the previous decision and the Taxpayer submitted the approved statements for the year 2015AD which established the disputed clause, the committee concludes to accept the Taxpayer's appeal and cancel the decision of the Appellate Committee.

Article (70) of the Sharia Procedure Law promulgated by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law



issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the case and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the circuit, even if the content of the agreement is within the jurisdiction of another court or circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where it was proven to this circuit the Authority's request to leave the appeal for the clause (depreciation differences) (Depreciation), (Profits from the sale of property and equipment (cars)), and (Fixed Assets), as stated in the letter issued by the Authority in the appended memorandum, which contains the following: "The Authority informs your esteemed Circuit to abandon its appeal with regard to the above clause specifically and the consequences of the Authority's appeal for this clause in accordance with the decision of the Adjudication Circuit in terms of reasons." therefore, the Circuit must accept the abandonment of the litigation.

With regard to the Taxpayer's appeal regarding the clause (Short-term obligations), the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it determines that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the content of these reasons, it is clear that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and whereas it is evident that the decision under appeal regarding the disputed clauses was consistent with the valid reasons on which it was based and sufficient to support its decision since the issuing circuit scrutinized the dispute and reached the conclusion it reached in the operative part of the decision, and since this circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, this circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in its conclusion on the clause (Short Term Obligations), taking into account its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company... Commercial registration (...) Number (...) And the Zakat, Tax and Customs Authority, against the decision of the first circuit regarding violations and disputes of income tax in Jeddah with number (IZJ-2022-2561) issued in case number (63938-2021-Z) related to the Zakat assessment for the year 2015AD.

Secondly: On the Merits:



- 1- Acceptance of the withdrawal of the dispute regarding the authority's appeal on the clause (depreciation differences).
- 2- Acceptance of the authority's appeal and cancellation of the decision of the Appellate Committee regarding the clause (investment profits).
- 3- Acceptance of the withdrawal of the dispute regarding the authority's appeal on the clause (profits from the sale of properties and equipment (cars)).
- 4- Acceptance of the withdrawal of the dispute regarding the authority's appeal on the clause (fixed assets).
- 5- Acceptance of the authority's appeal and cancellation of the decision of the Appellate Committee regarding the clause (provision for doubtful debts).
- 6 - The Taxpayer's appeal is rejected and the decision of the division regarding clause (short-term obligations) is upheld.
- 7 - The Taxpayer's appeal is accepted and the decision of the division regarding clause (goodwill consumption) is canceled.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-178773

Case No. Z-2023-178773

Keywords:

Zakat - Adjustment to net profit - depreciation differences - acceptance of the authority's appeal

Summary:

The objection of the Zakat, Tax and Customs Authority to the decision of the third division regarding violations and disputes of income tax in Riyadh with number (IFR-2022-6721), where its appeal lies on clause (depreciation differences for the year 2018) claiming the existence of double deduction. The appellate committee found that the authority added the clause to the net profit in the amount of (5,483,671) riyals for the year 2018AD, and that the Zakat treatment is to deduct the depreciation expense from the net profit and also calculate the book value of fixed assets at the end of the year according to the financial statements and deduct it from the Zakat base. The implication is that the appeal of the authority is partially accepted and the decision of the adjudication committee is amended.

Document:

- Paragraph (2) of Article (4/1) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Article (7/2) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal was heard on: 2023/02/16 AD, from the Zakat, Tax and Customs Authority, on the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh, No. (IFR-2022-6721) issued in Case No. (Z-87349-2021) related to the Zakat assessment for 2016 AD, in the case filed by the



Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

- 1- Disregard the clause (short-term loans for 2016).
- 2- Cancellation of the defendant's decision regarding the clause (consumption differences for the years 2016 to 2018).
- 3- Amending the Defendant's decision with respect to the clause "Parties due to related parties for the year 2016AD".
- 4- Amending the Defendant's decision with respect to the clause (Reserves payable for construction work in progress for the year 2016AD).
- 5- Cancellation of the defendant's decision regarding the clause (Accounts payable for construction in progress for the year 2016AD).
- 6- Amending the Defendant's decision with respect to the clause (allocations provided for 2018).
7. Reject all other objections.

As this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it submitted a list of appeals, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (depreciation differences for the year 2018), the Authority explained that it did not accept the deduction of depreciation differences because the Taxpayer discounted the assets based on the net book value according to the financial statements of the years in dispute, and when studying the objection and after reviewing the assessments, it turned out that the Taxpayer discounted the assets at the book values mentioned in the lists in addition to deducting the depreciation differences from the net profit therefore, the Taxpayer's procedure is incorrect, and what the Authority did was to exclude the differences because the Taxpayer discounted the assets according to the book values, and therefore the straight-line method was reversed and taken into account when discounting the assets from the deductions of the base, and therefore the differences should not be deducted from the net profit, and in light of the above, the Taxpayer's objection was rejected based on Article 4 paragraph (1) of Clause 2 of the Zakat Collection Regulation: "The net value of fixed assets (property assets) and any payments for the purchase of fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer - unless there is an obstacle preventing the transfer of ownership - and that they are used in the activity." the Circuit issuing the decision



under appeal also annulled the Authority's decision because the Defendant provided evidence that it had followed the straight-line method in the Zakat Collection Regulation. The Authority responds that the Circuit's conclusion is incorrect, as the Authority did not accept the deduction of depreciation differences because the Taxpayer discounted the assets based on the net book value according to the financial statements, and after reviewing the assessments, it was found that the Taxpayer discounted the assets at the book values in the lists in addition to deducting depreciation differences from net profit, and therefore the Taxpayer's procedure is incorrect and what the Authority did was to exclude the difference. For 2018: Authority states that it deducted the assessment (410,364,996) SAR, which is higher than the Taxpayer's declaration of (404,881,325) SAR and a difference of (5,483,671) SAR, which is the same amount that was returned to the net profit above from the depreciation difference, which means that the impact on the Zakat base is zero, as the processing was done correctly and the Authority upholds the correctness and integrity of its procedure and requests that its appeal be accepted and the decision of the Dispute Resolution Circuit regarding the clause under appeal be overturned.

On Sunday, April 14, 2024, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; 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 Order No. (26040) and dated:21/04/1441AH after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Authority, 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 formally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the subject of the Authority's appeal regarding the (2018 consumption differences) clause, the Authority's appeal is to challenge the Adjudication Circuit's acceptance of the Taxpayer's objection regarding the disputed clause, claiming that there is a double deduction. Based on paragraph number (1) of



clause (2) of article four of the executive regulation for collecting zakat issued by ministerial decision number (2082) dated 1/6/1438 AH which stated: "The following shall be deducted from the zakat base: 1- Fixed assets, including the following: the net value of fixed assets (Acquisition assets), any payments for the purchase of fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer - unless there is an obstacle that prevents the transfer of ownership - and are used in the activity." Based on paragraph (2) of Article (7) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution (2082) dated 1/6/1438H, which stipulates that: "Fixed assets are depreciated according to the straight-line method and their depreciation rate is as follows: ...". Based on the above, and upon reviewing the case file, it became clear that the dispute lies in that the Taxpayer deducted the assets at the book values stated in the statements in addition to deducting depreciation differences from the assets at book values at the end of the year and also deducting depreciation differences from the net profit, indicating the existence of double deduction, and what the authority did was to add the clause to the net profit in the amount of (5,483,671) riyals for the year 2018AD, and that the Zakat treatment is to deduct the depreciation expense from the net profit and also calculate the book value of fixed assets at the end of the year according to the financial statements and deduct it from the Zakat base, which leads the division to partially accept the authority's appeal and amend the decision of the division regarding this clause.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the Zakat, Tax, and Customs Authority against the decision of the third circuit regarding violations and disputes of income tax in Riyadh numbered (IFR-2022-6721) issued in case number (Z-87349-2021) related to the zakat assessment for the year 2016 AD.

Secondly: On the Merits:

Partially accepting the authority's appeal and amending the decision of the division regarding clause (depreciation differences for the year 2018).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-192511

Case No. Z-2023-192511

Keywords:

Zakat - Adjustment to net profit - rental expenses - acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the first division regarding violations and disputes of income tax in Jeddah number (IZJ-2023-97598), where its appeal lies on clause (investments) claiming that the investment value was determined according to the financial statements of the invested companies, and clause (dividends amounting to 3,000,000 riyals) for providing supporting documents, and clause (expenses rent) to exclude rental expense differences from the net profit. The appellate committee found that necessary and essential expenses to achieve activity are deductible expenses, and since the decision of the division is based on the fact that the dispute is documentary, upon reviewing the submitted documents, it is clear that the Taxpayer submitted several rental contracts. Consequently; accepting the Taxpayer's appeal and canceling the decision of the adjudication authority.

Document:

- Paragraph (8) of Article (4/1) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (4/A) of Article (4/2) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (1/A) of Article (5) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal was heard on: 2023/04/19 AD, from/..., National ID No. (...) In his capacity as Vice Chairman of the Board of Directors of the Appellant Company under its Articles of Incorporation, on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2023-97598) issued in Case No. (Z-97598-2022) regarding the estimated Zakat assessment for the year 2018AD, in the case filed by the Appellant against the Zakat, Tax and Customs Authority:

- 1- Rejecting the claimant's objection regarding the 2018 investments clause.
- 2- Rejecting the plaintiff's objection regarding the 2018 dividend clause.
- 3- Rejecting the plaintiff's objection regarding the exclusion of overcharged social insurance expenses.
- 4- Rejecting the plaintiff's objection with regard to the rental expense differences clause.
5. The plaintiff's objection regarding the trade receivables clause is rejected.
- 6) Reject the plaintiff's objection regarding the employee benefits clause.
- 7) Reject the plaintiff's objection regarding the accrued expenses and vacation allowance.
8. The plaintiff's objection with respect to the clause Other Credits is dismissed.
- 9- Rejecting the plaintiff's objection regarding the liability clause for investment in subsidiaries.

Since this decision was not accepted by the Taxpayer (Company ...), he filed a list of appeals, which included the following:

The Taxpayer disagrees with the decision of the Appellate Division, claiming that with regard to the clause (Investments), the Taxpayer explains that the company does not agree with the Authority's treatment and the decision of the Adjudication Committee on the method of calculating the investments that are allowed to be deducted in the subsidiaries. First, before going into the technical and technical aspect of the deduction of these investments, we would like to point out that the Authority's and the Adjudication Committee's refusal to treat the company to deduct investments in accordance with their value disclosed in the audited financial statements of the company is unwarranted, as the article referred to does not require the investment value to be calculated according to the financial statements of the investee companies, the mother with regard to the Taxpayer's appeal regarding the clause (dividends of SAR 3,000,000), the



Taxpayer explained that the company does not agree with the Authority's treatment and the decision of the adjudication committee, in addition, the company wishes to point out that the Authority rejected the supporting documents for the payment of SAR(3,000,000),in this regard, the company would like to clarify that such classifications are automatically determined in accordance with the electronic banking system defined by the Saudi Central Bank, which was not formed to comply with the requirements of the Authority and the Executive Regulations for the collection of Zakat, and therefore the rejection of the Authority and the Adjudication Committee above is not justified. Regarding the Taxpayer's appeal regarding the clause (Rental Expense), the Taxpayer explained that the company does not agree with the Authority's treatment of excluding the above amount, as these amounts represent other rents, and these expenses are classified within the cost of Revenue according to the audited financial statements, and the fact that the Authority introduced the above Adjustment violates the provisions of Article 5 of the Zakat Executive Regulations issued by Ministerial Decision No. (2082) dated 1/6/1438H zakat Executive Regulations issued by Ministerial Decision No. (2082) dated 1/6/1438 AH , which allows the deduction of all ordinary and necessary expenses, whether paid or accrued, up to the net result of the activity. Accordingly, these expenses are basic and necessary business expenses for the company.

On Monday, June 24, 2024, 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 (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated:08/04/1445AH 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 reviewing the case documents and the appeal list submitted by the Taxpayer, 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 formally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.



The Taxpayer's appeal relates to the clause (Investments), and the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as he claims that the investments were deducted according to the company's share in the investee companies, as the value of the investment was determined according to the financial statements of the investee companies. Based on the provisions of paragraph (10) - Equity Method - IAS 28: "Under the equity method, on initial recognition, an investment in an associate or joint venture is recognized at cost, the carrying amount is increased or decreased to recognize the investee's share of the investee's profit or loss after the acquisition date, and the investee's share of the investee's profit or loss is recognized in the investee's profit or loss. Dividends received from the investee reduce the carrying amount of the investment. Adjustments to the carrying amount may also be necessary for changes in the investee's proportionate share of the investee arising from changes in the investee's other comprehensive income. Such changes include those arising from the revaluation of property, plant and equipment and foreign currency translation differences. The invested entity's share of these changes shall be recognized within the other comprehensive income of the invested entity." Based on Article (4) Clause (II) Paragraph (4/a) of the Zakat Collection Regulation issued by Ministerial Decision No. (2082) dated 1/6/1438H, which stipulates that "The following shall be deducted from the zakat base:" 4- (A): "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." based on the above, as it is clear that the dispute is that the Taxpayer is required to discount the balance of investments in subsidiaries as recorded in their financial statements, but the Authority has discounted the investment balance by the company's percentage of ownership in the equity of the subsidiaries at the book value of the investee's equity, and based on the above, where the investment is accounted for using the equity method, that is, the purchase cost when acquiring the investment and not the book value of the subsidiary's equity, this may result in differences in the value of investments on the acquisition date in the books of the investor and the books of the investee due to the difference between the book value of the investment and the equity of the investee.

Regarding the Taxpayer's appeal regarding the clause "Dividends of SAR 3,000,000", the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as he claims to have submitted supporting documents. Based on paragraph (8) of clause (First) of Article (4) of the executive regulation for collecting zakat issued by the Minister of Finance's decision number (2082) dated 01/06/1438 AH, which stated the following: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8- The balance of carried forward profits from previous years at the end of the year." based



on the above, and since the dispute is limited to the Taxpayer's claim to deduct the amounts of (3,000,000) SAR and (1,707,448) SAR, and upon reviewing the documents submitted, it appears that the Taxpayer submitted a bank statement distributing the amount of (3,000,000) SAR to the company, which leads the Circuit to accept the Taxpayer's appeal and annul the decision of the Dissolution Circuit regarding this clause because it is proven that the funds left his liability before the lunar calendar.

Regarding the Taxpayer's appeal regarding the clause (Rental Expenses), where the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as he claims that it is an essential and necessary business expense for the company. Based on the text of paragraph (1/A) of article (5) of the executive regulation for Zakat collection issued by Minister of Finance decision number (2082) dated 01/06/1438H related to the expenses that can be deducted which stated that: "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the above, and since the dispute is over excluding rental expense differences from net profit, and since necessary and essential expenses to achieve the activity are deductible expenses, and since the decision to dismiss is based on the dispute being documentary, and upon reviewing the submitted documents, it appears that the Taxpayer has provided several lease contracts, which leads the circuit to accept the Taxpayer's appeal and cancel the decision of the circuit regarding this clause.

With regard to the Taxpayer's appeal on the remaining clauses in the case, the Circuit is not to be faulted for adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with what these reasons contain, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the outcome it reached on the clauses at issue in the case, bearing in mind its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:



Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company ..., commercial register (...), Unique number (...) Against the decision of the first circuit for adjudicating violations and disputes of income tax in Jeddah Province with number (IZJ-2023-97598) issued in case number (Z-97598-2022) related to the estimated zakat assessment for the year 2018 AD.

Secondly: On the Merits:

1- Accept the Taxpayer's appeal and cancel the decision of the circuit regarding clause (investments).

2- Regarding the Taxpayer's appeal on clause (dividends):

A- Accept the Taxpayer's appeal and cancel the decision of the circuit regarding (in the amount of 3,000,000 Riyals).

B- Reject the Taxpayer's appeal and uphold the decision of the circuit regarding (in the amount of 1,707,448 Riyals).

3- Reject the Taxpayer's appeal and uphold the decision of the circuit regarding clause (exclusion of social security expenses loaded with increases).

4- Accept the Taxpayer's appeal and cancel the decision of the circuit regarding clause (rental expenses).

5- Reject the Taxpayer's appeal and uphold the decision of the circuit regarding (various clauses represented in (credit commercial accounts, employee dues, accrued expenses and vacation pay, other credit balances).

6- Reject the Taxpayer's appeal and uphold the decision of the circuit regarding clause (adding a liability for investment in subsidiaries).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2023-93722

Case No. Z-2022-93722

Keywords:

Zakat - Adjustment to net profit - import differences - acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's appeal against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Dammam (IZD-2021-1902), where his appeal lies on the clause (Payables and other liabilities for the years 2013 to 2015), the clause (Balances due to partners for the years 2012, 2013, 2015, 2016 and 2017) and the clause (Due from related parties for the years 2012 and 2015) to object that the balances of the above-mentioned clauses did not reach the end of the year according to the annexes to the account statement (Import differences for the years 2015 to 2017) according to the attachments to the statement of account, and (Import differences for the years 2015 to 2017) according to the following reasons that he mistakenly recorded external purchases as internal purchases for the years 2015 to 2017AD. And since it has been established to the appellate committee that the Taxpayer has provided supporting documents, which prove his claim that the differences in foreign purchases are actual expenses and deductible. This means; accepting the Taxpayer's appeal and canceling the decision of the adjudicating circuit.

Document:

- Article (20/3) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (5) of Article (4/1) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal filed on 30/01/2022 from ... Company, Commercial Register No. (...), Unique number (...), and the appeal filed on 31/01/2022 from the Zakat, Tax and Customs Authority.), and the appeal filed on ./ from the Zakat, Tax and Customs Authority, against the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Dammam City (IZD-2021-1902) issued in Case No. (Z-9327-2019) related to the Zakat assessment for the years 2010 to 2017AD, in the lawsuit filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

- 1- Formal non-acceptance for the years 2015 to 2017AD.
- 2- Annul the defendant's decision regarding the import differences clause for the years 2011 to 2014.
- 3- Cancel the defendant's decision with respect to the bad debt clause for the year 2012.
4. In relation to payables and other liabilities:
 - A-Revocation of the defendant's decision for 2011 and 2012.
 - B-Defendant's 2013 decision.
- 5-Modify the Defendant's decision with respect to the related parties clause for the years 2012 and 2013.
- 6- Rejecting the plaintiff's objection regarding the clause of credits due to partners for the year 2012.
- 7-Modify the Defendant's decision with respect to the 2012 and 2013 loss carryforwards.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies in the clause (import differences for the years 2015 to 2017). The Taxpayer claims that he erroneously recorded foreign purchases as internal purchases for the years 2015 to 2017AD. In 2015, the Taxpayer imported on behalf of Ltd. Amounting to (2,838,402) SAR, the Taxpayer claims that the balances of the above-mentioned clauses are not due to the Taxpayer according to the annexes of the statement of account supporting the above-mentioned clauses, as well as the clause (Bad debts for 2017), and the clause (Write-off of payments made to a supplier) the Taxpayer also appeals against the clause (Bad debts for 2017) and



the clause (Write-off of payments to suppliers for 2016). Therefore, the Taxpayer requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above-mentioned reasons.

The decision was not accepted by the Zakat, Tax and Customs Authority, which filed its appeal against the challenged decision by means of an appeal regulation that included the following summary:

With regard to the Authority's appeal against the decision of the Adjudication Circuit, the Authority claims that the calculation of the accumulated losses is in accordance with the Authority's profitability in accordance with Article (9) of the Zakat Executive Regulations, and the Authority also appeals against the clauses (import differences for the years 2011 to 2014), (bad debts for 2012), (payables and other liabilities for 2011, 2012 and 2013), and (related parties for 2012 and 2013). Therefore, Authority maintains the validity and integrity of its procedure and requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above reasons.

On Sunday, December 17, 2023 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision On the merits, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, 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 means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

The Taxpayer's appeal relates to the clause (import differences for the years 2015 to 2017), and the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as he claims that he mistakenly recorded foreign purchases as domestic purchases for the years 2015 to 2017AD.



Where paragraph (3) of article (20) of the executive regulation for collecting zakat issued by ministerial decision number (2082) dated 01/06/1438 AH states that: "The burden of proving the accuracy of what is stated in the Taxpayer's zakat declaration from clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven accurate by the Taxpayer or may proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." After reviewing the case file and its contents, as well as the appeal list and the committee's study of the documents submitted by the Taxpayer, and since the Taxpayer has provided supporting documents that prove their claim that the differences in foreign purchases are legitimate expenses and deductible, the committee concludes to accept the Taxpayer's appeal and annul the decision of the committee regarding the clause of differences in foreign imports from the tax base for the years 2015 to 2017AD.

Whereas, regarding the Taxpayer's appeal regarding the clause (Payables and other liabilities for the years 2013 to 2015), the clause (Balances due to partners for the years 2012, 2013, 2015, 2016 and 2017) and the clause (Due from related parties for the years 2012 and 2015), the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause; claiming that the balances of the above mentioned clauses have not reached their due date according to the attachments to the statement of account supporting the above-mentioned clauses. The first paragraph (5) of Article (4) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH states that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:..5- government and commercial loans and other financing sources such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows:" A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. (c) What has been used in trade offers and has passed the hawl." Article 20, paragraph (3) of the Tax Law also stipulates that: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, trade payables are considered a component of the Zakat base provided that they are turned over or used to finance assets that are excluded from the Zakat base. A review of the documents attached to the case file shows that the Taxpayer submitted the detailed



movement of payables and other liabilities for the years 2013 through 2015, due to partners for the years 2012, 2013, 2015, 2016, and 2017AD, and due from related parties for the years 2012 and 2015 to prove that the amounts in dispute have not turned over for the years 2012, 2013, 2015, 2016, 2017AD, and due from related parties for the years 2012 and 2015 to prove that the amounts disputed did not turn around, and that the amounts in dispute did not turn around, which leads the Circuit to accept the Taxpayer's appeal and modify the decision of the Adjudication Circuit by deciding to subject only the amounts that have turned around.

Regarding the Taxpayer's and the Authority's appeal on the remaining clauses in the case. Whereas, there is no fault on the part of the Circuit in adopting the reasons for the decision under appeal without adding to them, if it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with the content of those reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in those reasons, and since it is proven that the decision under appeal regarding the dispute regarding the clauses under appeal was consistent with the valid reasons on which it was based and sufficient to carry its judgment, since the issuing Circuit scrutinized the content of the dispute in it and reached the result in its operative part since the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and since this Circuit did not observe anything that warrants censure or comment on it in light of the arguments raised before it, this Circuit concludes to reject the Taxpayer's appeal and the Authority's appeal, and to uphold the decision of the Adjudication Circuit in its conclusion on the remaining clauses at issue in the case, bearing in mind its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ ..., resident ID number (...), unique number (...) The appeal submitted by the Zakat, Tax and Customs Authority against the decision of the third circuit regarding violations and disputes of income tax in Riyadh with number (IFR-2022-5032) issued in case number (IW-26609-2020) related to the tax assessment for the years from 2008 to 2016.

Secondly: On the Merits:



- 1- Rejecting the Authority's appeal and upholding the decision of the committee regarding the clause (differences in imports for the years from 2011 to 2014).
- 2- Rejecting the Authority's appeal and upholding the decision of the committee regarding the clause (bad debts for the year 2012).
- 3- Rejecting the Authority's appeal and upholding the decision of the committee regarding the clause (creditors and other liabilities for the years 2011, 2012, and 2013).
- 4- Rejecting the Authority's appeal and upholding the decision of the committee regarding the clause (related parties for the years 2012 and 2013).
- 5- Rejecting the Authority's appeal and upholding the decision of the committee regarding the clause (carried forward losses for the years 2012 and 2013).
- 6- Accepting the Taxpayer's appeal and annulling the decision of the committee regarding the clause (differences in imports for the years from 2015 to 2017).
- 7- Rejecting the Taxpayer's appeal and upholding the decision of the committee regarding the clause (bad debts for the year 2017).
- 8- Partially accepting the Taxpayer's appeal and amending the decision of the committee regarding the clause (creditors and other liabilities for the years from 2013 to 2015).
- 9- Partially accepting the Taxpayer's appeal and amending the decision of the committee regarding the clause (amounts due to partners for the years 2012, 2013, 2015, 2016, and 2017).
- 10- Partially accepting the Taxpayer's appeal and amending the decision of the committee regarding the clause (amounts due from related parties for the years 2012 and 2015).
- 11- Rejecting the Taxpayer's appeal and upholding the decision of the committee regarding the clause (cancellation of advance payments to suppliers for the year 2016AD).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2023-141032

Case No. Z-2022-141032

Keywords:

Zakat - Adjustments to Net Profit - Revenue Difference - Acceptance of Taxpayer's Appeal - Acceptance of Authority's Appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority objected to the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam (IZD-2022-1250), where the parties' appeal lies on the clause (Payables for the years from 2015 to 2018) due to the absence of the movement related to the years in dispute, and the Taxpayer's appeal lies on the clause (Revenue difference for 2018) due to the existence of invoices that do not belong to him but belong to the owner. The Appellate Committee found that the Taxpayer submitted an analytical statement of the Revenue difference and a sample of invoices, which were found to belong to (...), and the Taxpayer submitted documents in support of his viewpoint. Accordingly; the acceptance of the Taxpayer's appeal, and the acceptance of the authority's appeal.

Document:

- Paragraph (5) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 15/08/2022, from the Zakat, Tax and Customs Authority, and the appeal filed by ..., National ID No. (...), as agent for the appellant company under the agency No. (...) On 17/08/2022 AD, the



First Circuit of Adjudication of Income Tax Violations and Disputes in Dammam City (IZD-2022-1250) issued in Case No. (Z-44989-2021) related to the 2015 Zakat assessment, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

1.modification of the Defendant's decision with respect to Accounts Payable for the years 2015, 2016, 2017AD, and 2018.

2 dismiss the plaintiff's objection regarding the Revenue clause from the 2017 trial balance.

3 dismiss the plaintiff's objection with respect to the 2018 Revenue variance.

4 rejecting the plaintiff's objection regarding the 2017 and 2018 carry-over profits.

5 dismiss the plaintiff's objection with respect to the unsupported expenses for 2018.

6 dismiss the plaintiff's objection with respect to the 2018 appropriations line clause.

7 rescind the Defendant's decision with respect to the 2016 Retained Receivables.

8 dismissed the plaintiff's objection with respect to the withholding tax provision for the years 2016 through 2020.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal of the Dismissal Service's decision, the Taxpayer's appeal consists of the following clauses: clause (Revenue from the trial balance for 2017 in the amount of SAR 4,018,325). The Taxpayer claims that there is a Revenue difference of SAR 2,362,903 in the 2018 VAT return for a group of ... (Owner), and that the company is under liquidation in accordance with the bankruptcy law, and because the business is his position and the management is completely absent, the invoices for these supplies were issued on his papers and acknowledged, but they do not belong to him but to the company ...accordingly, the Taxpayer requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the following reasons: (profits carried forward for the years 2017 and 2018), (unsupported expenses for the year 2018 amounting to SR 40,133,810), (provisions for the year 2018), (withholding tax for the years 2016 to 2018), (payables for the years 2015 to 2018), and (payables for the years 2018).



The decision was not accepted by the Zakat, Tax and Customs Authority, which filed its appeal against the challenged decision by means of an appeal regulation that included the following summary:

With regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal consists of the following clauses: with regard to the clause (Retained Receivables for 2016), and with regard to the clause (Payables for the years 2015 to 2018), the Authority clarifies that it added the payables according to the balance of the beginning of the period or the end of the period, whichever is less, and that for the year 2015AD: that the Taxpayer submitted the suppliers' movement, which shows that the first period balance of the suppliers' movement according to the statement does not match the financial statements and the last period balance matches, and that it traced the movement of the account submitted by the Taxpayer with the Secretariat and determined what has become due, and found that her procedure was correct. For the years 2016 to 2018: therefore, the Authority maintains the validity and integrity of its procedure and requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the foregoing reasons.

On Thursday, December 14, 2023 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision On the merits, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, 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 means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

The Taxpayer's appeal is regarding the Taxpayer's appeal regarding the clause (Revenue difference for 2018), and the Taxpayer's appeal lies in the existence of invoices that do not belong to him but to the owner.



As it turns out that the dispute over this clause is based on the data provided by both parties, it is clear that the Authority took the Revenues declared in the VAT returns and compared them with what was disclosed in the Zakat return, it turns out that there are undeclared Revenues worth (2,362,903) riyals for the year (2018), and referring to the case file and the documents submitted, it turns out that the Taxpayer submitted an analytical statement of the difference in Revenues and a sample of invoices, through which it turns out to belong to the company ...as the Taxpayer submitted documents in support of his point of view, the Circuit concluded to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding this clause.

Whereas, with regard to the Authority's appeal regarding the clause (unsupported expenses for 2018 in the amount of 40,133,810 riyals) and where Article (70) of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the case and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the above, and where it is proven that the dispute ended with the Authority's acceptance of the plaintiff's requests as stated in the letter issued by the Authority in the supplementary note, which includes "the Authority informs you of the acceptance of the Taxpayer's objection to this specific clause." therefore, the Circuit will have to prove that the dispute over this clause is over.

As for the Authority's appeal regarding the clause (Accounts Payable for the years 2015 to 2018), the Authority's appeal lies in the fact that it did not find the movement related to the disputed years. Paragraph (5) of clause (I) of Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, stating that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including: 5- government and commercial loans and other sources of funding such as creditors, promissory notes, and overdraft accounts that are owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade and a year has passed on it." article 20, paragraph (3) of



which states: "The burden of proving the correctness of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the correctness of the clauses in his declaration, the Authority may not authorize the clause whose correctness is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it whereas, trade payables are considered a component of the Zakat base provided that they are turned over or used to finance the assets deducted from the Zakat base, and upon reviewing the case file and the documents it contains, it appears that the Taxpayer has submitted the detailed movement of the receivables, and upon reviewing it, the following appears: with regard to the year 2015AD, it appears from the submitted excel file that the opening balance totaled (26,892,116) SAR, while according to the financial statements it amounted to (25,244,199) SAR. with regard to the years 2016, 2017 and 2018AD, and by reviewing the documents attached to the case file, it is clear that the Taxpayer did not submit the detailed movement of payables to prove that the disputed amounts did not turn over, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Dispute Resolution Circuit regarding this clause.

Regarding the Taxpayer's and the Authority's appeal on the remaining clauses in the case. Whereas, there is no fault on the part of the Circuit in adopting the reasons for the decision under appeal without adding to them, if it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with the content of those reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in those reasons, and since it is proven that the decision under appeal regarding the dispute regarding the clauses under appeal was consistent with the valid reasons on which it was based and sufficient to carry its judgment, since the issuing Circuit scrutinized the content of the dispute in it and reached the result in its operative part since the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and since this Circuit did not observe anything that warrants censure or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal, reject the Authority's appeal, and uphold the decision of the Adjudication Circuit with respect to the rest of the clauses at issue in the case, bearing in mind its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:



Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/company ..., commercial registration (...), Unique number (...), and the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the third circuit regarding violations and disputes of income tax in Riyadh number (IZD-2022-1250) issued in case number (Z-44989-2021) related to the Zakat assessment for the year 2015AD.

Secondly: On the Merits:

- 1- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (retained receivables for 2016).
- 2- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Revenue from the 2017 trial balance).
- 3- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the (2018 Revenue difference) clause.
- 4- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (carried forward profits for the years 2017 and 2018).
- 5- Establishing the end of the dispute regarding the Taxpayer's appeal on the clause (unsupported expenses for 2018).
- 6- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the (2018 allocations) clause.
- 7- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (withholding tax for the years 2016 to 2018).
- 8- Rejecting the Taxpayer's appeal, accepting the Authority's appeal, and canceling the decision of the Adjudication Circuit regarding the clause (payables for the years 2015 to 2018).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024- 169240

Case No. Z-2023-169240

Keywords:

Zakat - Adjustment to net profit - Revenues according to the unreported completion percentage - acceptance of the Taxpayer's appeal.

Summary:

The Taxpayer's objection to the decision of the third circuit regarding violations and disputes of income tax in Riyadh number (ITR-2022-6014), where their appeal is based on the clause (other expenses (A) regarding the amount of 1,580,617 Riyals) and (expenses for renting machinery and equipment) as the expenses are related and incurred for the purpose of conducting the activity and are recorded in the company's books and records and supported by documentary evidence and are considered deductible expenses, and the clause (Revenues according to the percentage of unreported completion) for the Authority adding the clause to the tax base. It has been established to the appellate committee that the Revenues for the Taxpayer's activities are recorded according to the percentage of work completed in accordance with the requirements of the approved accounting standards, and since the audited financial statements are based on the presumption of accuracy and integrity, and since the Authority has not provided anything to challenge those statements. Consequently; accepting the Taxpayer's appeal and canceling the decision of the adjudication authority.

Document:

- Paragraph (4) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (2) of Article (6) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal filed on 12/01/2023 AD by ... Company, against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh, No. (ITR-2022-6014) issued in Case No. (Z-47205-2021) related to the 2018 Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

Acceptance of the plaintiff's objection/ Company ... (Commercial Register No. ...), appeals the decision of the Defendant/Zakat, Tax and Customs Authority on the formal aspect and rejects it on the substantive aspect.

Since this decision was not accepted by the Taxpayer (Company ...), he filed a list of appeals, which included the following:

The Taxpayer disputes the decision of the Adjudication Circuit, claiming that with regard to the clause "Other Expenses (a) regarding the amount of SAR 1,580,617 the expense is related to and incurred for the purpose of practicing the activity, is accounted for in the company's books and records, is supported by supporting documents, and is a deductible expense based on Article 5 (1) of the Zakat Executive Regulations, and is not a capital expense; the Taxpayer submitted an analytical statement the Taxpayer submitted an analytical statement about the expenses and a set of sample invoices in addition to an analysis of the value of the expense and proof of payment of the expense, as the dispute is documentary and the Taxpayer has the right to submit all documents if they are available according to Article (1909) of the Shari'ah Procedures Law.

The Taxpayer claims that the expense is related and incurred for the purpose of practicing the activity and is accounted for in the company's books and records and supported by supporting documents, and is considered a deductible expense based on paragraph (1) of Article (5) of the Executive Regulations for Zakat Collection, and it is not a capital expense the Taxpayer submitted an analytical statement on the expenses and a set of invoices as a sample in addition to an analysis of the value of the expense and proof of payment of the expense, as the dispute is documentary and the Taxpayer has the right to submit all documents if they are available based on Article (1909) of the Shari'ah Procedures Law. The Taxpayer claims that the Authority added an unauthorized estimated Revenue clause to the Zakat base in the amount of SAR (2,033,856), despite the fact that the Taxpayer has audited financial statements approved by a certified public accountant and consistent with the Zakat declaration submitted by him, and the Revenues shown in the



Zakat base are identical to the Revenues shown in the financial statements in the amount of (48,519,202,47) SAR. the attached analysis shows the movement of Revenues according to the percentage of completion with the total Revenues during 2017 and 2018 and what has been invoiced. Therefore, the Taxpayer confirms that his total Revenues in the Zakat declaration and financial statements include these estimated Revenues because they are the total invoices issued from the project, which represents a Zakat enrichment. The Taxpayer also objects to the clause (Other expenses (b) regarding the amount of SAR 832,168) (Expenses charged from the head office), (Salaries and wages differences and support for the Circuit's decision), and (Accounts payable balances). Therefore, the Taxpayer requests the reversal of the decision of the Adjudication Circuit under appeal for the above reasons.

On Monday, January 29, 2024, the First Appellate Circuit for Income Tax Violations and Disputes met via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause No. (2) of Article Fifteen of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441AH after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, 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 formally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

As for the Taxpayer's appeal regarding the clause "Other Expenses (A) for SAR 1,580,617", the Taxpayer's appeal is that the expense is related and incurred for the purpose of practicing the activity and is accounted for in the company's books and records and supported by supporting documents and is considered a deductible expense and is not a capital expense; the Taxpayer submitted an analytical statement of the expense and a set of invoices as a sample in addition to an analysis of the value of the expense and proof of payment of the expense. Where paragraph 1/(Second) of Article (5) of the executive regulation for the collection of Zakat issued by Ministerial Decision (2082) dated 1/6/1438H states: "All ordinary and



necessary expenses required for the activity shall be deducted whether they are paid or accrued, leading to the net result of the activity, provided that the following controls are met: A- It must be an actual expense supported by documentary evidence or other indications that enable the authority to verify its validity, even if related to previous years. B- It must be related to the activity and not related to personal expenses or other activities. In the event that an expense of a capital nature is included in the expenses, the result of the activity shall be adjusted and the fixed assets shall be included and amortized according to the statutory rates." Article 6(2) of the Law stipulates that expenses that may not be deducted shall be: "Expenses for which the Taxpayer is unable to substantiate the expenditure by supporting documents or other evidence." Article 20, paragraph (3) of the Code also stipulates: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, and where the Taxpayer's objection is that these expenses should be deducted because they are valid and incurred for the purpose of practicing the activity, while the Authority argued that it maintains the validity and integrity of its procedure and requests that the decision of the Adjudication Circuit be upheld, and where it is established by law that all ordinary and necessary expenses to achieve income may be deducted provided they are supported by supporting documents, and with reference to the documents submitted, namely (financial statements, statement of total expenses, statement of account report, samples of invoices and journal entries), and where we did not find in the financial statements an adequate and clear description of the nature of these alleged expenses whereas, we did not find in the financial statements a sufficient and clear description of the nature of these alleged expenses, and after reviewing the submitted statement, the Taxpayer clarifies the existence of several expenses categorized as (12) related to the disputed clause, and through the documents submitted by the Taxpayer, samples were selected and matched with the submitted statement of account as follows: 1/ (Expenses for waste removal work for projects) amounting to SAR (375,811) (the Taxpayer submitted entry no... And supporting invoices amounting to SAR 19,500 and proof of payment), 2/ (concrete work expenses for projects) amounting to SAR(475,143) (the Taxpayer provided several invoices related to ... Company), 3/ (backfill work expenses) amounting to SAR (635,813)(the Taxpayer provided an invoice from (SAR 32,915), 4/ (Project Equipment Expenses) (SAR 93,850) (The Taxpayer provided one of two samples, an organization(93,600 SAR)... Therefore, since the Taxpayer proved that he incurred the disputed expenses by submitting sample



documents and invoices to support his objection, the Circuit concluded by accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit in this clause.

With regard to the Taxpayer's appeal regarding the clause (Expenses for the rental of machinery and equipment), the Taxpayer's appeal lies in the fact that the expense is related and incurred for the purpose of practicing the activity and is accounted for in the books and records of the company and supported by supporting documents and is considered a deductible expense and is not a capital expense; the Taxpayer submitted an analytical statement on the expense and a set of invoices as a sample in addition to an analysis of the value of the expense and proof of payment of the expense. Where paragraph 1(/Second) of Article (5) of the executive regulation for the collection of Zakat issued by Ministerial Decision (2082) dated 1/6/1438H states: "All ordinary and necessary expenses required for the activity shall be deducted whether they are paid or accrued, leading to the net result of the activity, provided that the following controls are met: A- It must be an actual expense supported by documentary evidence or other indications that enable the authority to verify its validity, even if related to previous years. B- It must be related to the activity and not related to personal expenses or other activities. In the event that an expense of a capital nature is included in the expenses, the result of the activity shall be adjusted and the fixed assets shall be included and amortized according to the statutory rates." Article 6 (2) of the Law stipulates that expenses that may not be deducted shall be: "Expenses for which the Taxpayer is unable to substantiate the expenditure with supporting documents or other evidence." based on the above, and where the Taxpayer's objection is that these expenses should be deducted because they are valid and incurred for the purpose of practicing the activity, while the Authority argued that it maintains the validity and integrity of its procedure and requests that the decision of the Adjudication Circuit be upheld, and upon reviewing the case file; and where the Taxpayer provided the documents represented in (financial statements, statement of total expenses for renting machinery and equipment, account statement report showing description, date and movement, invoice samples, payment samples, and journal entries); and where the Taxpayer provided the documents represented in (financial statements, statement of total expenses for the rental of machinery and equipment, statement of account report showing description, date and movement, invoice samples, payment samples and journal entries) after reviewing the documents submitted by the Taxpayer, it was found that the documents submitted are sufficient to support the Taxpayer's appeal that he incurred these expenses, as the balances in the submitted statements match the balances shown in the financial statements, and he also provided proof of payment of these expenses, which means that the Taxpayer is



entitled to deduct these expenses from his Zakat base, which leads the Circuit to accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit on this clause.

Whereas, regarding the Taxpayer's appeal regarding the clause (Revenues according to the unauthorized percentage of completion), his appeal lies in the fact that the Authority added an unauthorized estimated Revenue clause to the Zakat base in the amount of SAR (2,033,856), although the Taxpayer has audited financial statements approved by a certified public accountant and consistent with the Zakat declaration submitted by him, and the Revenues shown in the Zakat base match the Revenues shown in the financial statements in the amount of (48,519,202,47) SAR. the attached analysis shows the movement of Revenues according to the percentage of completion with the total Revenues earned during 2017 and 2018 and what was invoiced. Where paragraph (4) of clause (First) of Article (Fourth) of the executive regulation for the collection of Zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH states: "The zakat base consists of all the Taxpayer's assets subject to zakat, including: 4- The Revenues presented that have completed a year." The accounting standard for construction and service contracts issued by the Saudi Organization for Certified Public Accountants, approved by the Board of Directors in Decision No. (2/3) dated 28/2/2009 states: "3/3 Recognition and measurement of Revenue and expenses. 1/3/3 At the date of the statement of financial position, when it is possible to estimate the outcome of the contract with a reasonable degree of certainty – recognize the Revenue and the costs associated with the contract as Revenues and expenses, and measure them based on the percentage of completion method. (Paragraph 113) 4/3/3 The percentage of completion method requires matching the contract Revenue with the costs incurred up to the date of reaching the specified percentage of completion, resulting in amounts for both Revenue and expenses and profits or losses related to the completed part of the contract, which have been presented in the financial statements. Paragraph 116. 5/3/3 According to the percentage of completion method, the contract Revenue must be recognized within the Revenues in the income statement for the accounting period in which the work was completed, and the contract cost must be recognized as expenses in the income statement for the accounting periods in which the related work was completed. The expected increase in the total cost of the contract over its total Revenue must be charged to the income statement, according to paragraph (129)." Based on the above, and since the Taxpayer's objection to the authority's amendment regarding this disputed clause is that the Revenues disclosed in the declarations are consistent with the submitted financial statements, while the authority argued that it requests the rejection of the Taxpayer's appeal and the affirmation of the decision of the adjudication circuit, and upon reviewing the subject of the dispute, and since the Taxpayer's activity consists of construction and contracting, and since



the Taxpayer submitted the financial statements, account statement, and a schedule for monitoring contracts which clarify the Revenues according to the percentage of completion to date amounting to (227,175,582) riyals and the Revenues according to the percentage of completion during previous years amounting to (189,616,563) riyals; this means that the Revenues according to the percentage of work completed during the year amount to (37,559,019) riyals which is disclosed in the Zakat declarations and consistent with the approved financial statements, and according to the percentage of completion method, the contract Revenue is recognized within the Revenues in the income statement for the accounting period in which the work was completed, and the contract cost is recognized as expenses in the income statement for the accounting periods in which the related work was completed, therefore, Revenues from such works are recognized accounting-wise according to the percentage of work completed in accordance with the requirements of the approved accounting standards, and since the audited financial statements are based on the presumption of accuracy and validity, and since the authority did not provide anything to challenge those statements, the circuit concludes with accepting the Taxpayer's appeal and canceling the decision of the adjudication circuit regarding this clause.

With regard to the remaining clauses subject to the lawsuit, there is no fault in the court's adoption of the grounds for the contested decision without adding to them, since it deemed that those grounds were sufficient and did not require the addition of any new information, because in upholding it on the grounds set out in those reasons, it confirmed that it did not find in the objections raised against the decision anything that warranted a response beyond what was contained in those reasons. That being the case, and since it has been established that the decision under appeal in the dispute concerning the contested clauses is consistent with the valid reasons on which it is based and sufficient to support its ruling, as the court that issued it examined the substance of the dispute and reached the conclusion set out in its ruling. This court did not find anything that would warrant correction or comment in light of the arguments presented before it. This court therefore rejects the appeal and upholds the decision of the court of first instance in its entirety with regard to the remaining clauses of the claim, based on the reasons given.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company ..., commercial register (...), Unique number (...) Against the decision of the third circuit for adjudicating violations and disputes of



income tax in Riyadh with number (ITR-2022-6014) issued in case number (Z-47205-2021) related to the Zakat assessment for the year 2018.

Secondly: On the Merits:

1 - Regarding clause (Other Expenses):

A- Accepting the Taxpayer's appeal and canceling the decision of the adjudication circuit regarding the amount of (1,580,617).

B - Rejecting the Taxpayer's appeal and affirming the decision of the adjudication circuit regarding clause (832,168).

3 - Accepting the Taxpayer's appeal and canceling the decision of the adjudication circuit regarding clause (Expenses for renting machines and equipment).

4 - Rejecting the Taxpayer's appeal and affirming the decision of the adjudication circuit regarding clause (Expenses charged from the head office).

5 - Rejecting the Taxpayer's appeal and affirming the decision of the adjudication circuit regarding clause (Salary and wage differences and affirming the decision of the circuit).

6 - Acceptance of the Taxpayer's appeal and cancellation of the decision of the division regarding clause (Revenues according to the unauthorized percentage of completion).

7 - Rejection of the Taxpayer's appeal and affirmation of the decision of the division regarding clause (accounts payable balances).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-170560

Case No. Z-2023-170560

Keywords:

Zakat - Adjustments to Net Profit - Donations - Acceptance of the Authority's Appeal

Summary:

The Zakat, Tax and Customs Authority (ZTCA) appealed against the decision of the Second Circuit for the Adjudication of Income Tax Violations and Disputes in Riyadh (ISR-2022-1799), where its appeal lies on the clause (Related Parties) to add the balance of the first period, and the clause (Donations for 2018) because it accepted the documented donations in the amount of (920,812) SAR and rejecting the unsupported donations in the amount of (2,576,308) SAR, while the decision of the Adjudication Circuit concluded to modify the Authority's decision and accept the documented donations in the amount of (872,395) SAR and reject the remaining amount. The Appellate Committee found that the Taxpayer did not respond to the Authority's argument regarding the acceptance of the same documents and only insisted on the amount accepted by the Authority, in addition to his demand to accept the full amount of the donations included in the financial statements, and after verifying the documents proving the payment of donations amounting to SAR(1,153,124), the Appellate Committee decided to accept the full amount of the donations. Accepting the Authority's appeal in part and amending the Circuit's decision to accept the deduction of the amount of the documented donations in the amount of SAR (1,153,124).

Document:

- Paragraph (2,3) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal filed on 01/18/2023, from/... Identity number (...) As a lawyer under law license No. (...), and the appeal filed on 22/01/2023 AD, from the Zakat, Tax and Customs Authority, against the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh City (ISR-2022-1799) issued in Case No. (69605-2021-Z) regarding the Zakat fees for the years from 2013 to 2018 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: Procedurally:

- 1- The case is inadmissible procedurally with regard to the clause (Declaration Difference) due to the failure to file an objection before the defendant, as stated in the reasons.
- 2- Accepting the lawsuit filed by the plaintiff/ ..., National ID No. (...), owner of (organization ...), commercial registration No. (...), against the defendant/ Zakat, Tax and Customs Authority, with regard to the remaining clauses.

Secondly: On the merits:

- 1- Rejecting the claim with regard to the clause of reopening the assessment for the years 2013 to 2017AD.
- 2- Dismissing the claim with regard to the additional capital clause and the deduction of debts from government entities.
- 3/a. The Defendant's action with respect to the ticket allocation clause is canceled, as stated in the reasons.
- 3/B- Dismissal of the claim with respect to an ad hoc clause (housing allowance - dismissal from service - doubtful debts).
- 4- Amending the defendant's action by accepting the documented donations in the amount of (872,395) SAR and rejecting the remaining amount, as stated in the reasons.
- 5- Dismissing the case with regard to the import difference clause.
- 6- Dismissal of the claim regarding the VAT sales difference clause.
- 7- Dismissal of the case with respect to the capital clause.



- 8) Dismissal of the claim with respect to the retained earnings clause.
9. Dismiss the claim with respect to trade creditors and other credits.
10. Dismissal of the claim with regard to the rounded allocations clause.
- 11- Dismiss the case with regard to the accrued expenses clause.
- 12- Dismissing the claim regarding the clause of records not added in the financial statements.
13. Revoke the Defendant's action with respect to the Related Parties clause, as set forth in the Reasons.
14. Dismissal of the claim regarding the right to use assets clause.
- 15- Dismissal of the claim for unrealized losses on available shares.
- 16- Accepting the plaintiff's objection regarding the Zakat paid for the years 2013 to 2017AD, as stated in the reasons.

This decision was not accepted by the Taxpayer (an organization ... He filed a list of appeals, which was reviewed by the Circuit, in which he demanded that the decision of the Adjudication Circuit be reversed and annulled. This decision was not accepted by the appellant (Zakat, Tax and Customs Authority), so it submitted an appeal list, which was reviewed by the Circuit, where the Authority's appeal is based on the clause (Related Parties - Agency Records...) By adding the balance of the first period) the Authority explains that when assessing, it added liabilities to related parties to the Zakat base where the balance of the first or last year, whichever is less, was added considering the turn of the year, and there was no response to the data request issued by the Authority on 09/09/1442 AH. The Taxpayer did not submit the movement despite the Authority's request for it, and regarding the movement submitted by the Taxpayer, it turned out that it concerned the account shown in the records of the travel and tourism agency only and did not submit the movement related to the account in the records of the hospital and its branch and the movement was explained through the Authority's note. It noted that the first period balance of SAR (319,555)relates to the ... As for the debit movement balance of SAR (2,834,509) related to the hospital, the Taxpayer did not provide documents to ascertain whether it was withdrawn before or after the lunar calendar year, and therefore confirms the addition of the balance of the first or last period, whichever is less. With regard to the clause (Donations for 2018), Authority explains that it added the unsupported donations to the net profit, as Authority accepted part of the donations amounting to SR (920,812) and rejected the unsupported



donations amounting to SR (2,576,308) for not providing the proofs, which were previously requested on 03/11/1442H and were not provided, and Authority reports that the Circuit issuing the decision amended the Authority decision by accepting an amount (50,000) riyals for the support of the Habouna Governorate Authority and (50,000) riyals for the support of the Disabled Children's Association, and the Authority reports that these amounts were previously accepted during the assessment phase, and upon reviewing the case papers, it is clear that all the documents submitted are the same documents submitted to the Authority, and these amounts were previously accepted in the assessment. Therefore, it is not clear to the Authority whether these accepted amounts are part of the rejected amount (SAR 2,576,308) or the entire action of the Authority and the accepted amount (SAR 872,395) out of the total donation clause (SAR 3,497,119.78). The Authority notes the inadequate reasoning of the Circuit's decision. She requests that her appeal be accepted and the decision of the Adjudication Circuit be reversed and annulled.

On Sunday, 02/06/2024 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 (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated:08/04/1445AH (25711): 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:



Regarding the Taxpayer's appeal, after reviewing the appeal list submitted by ... Company, it became clear that it was submitted by ... Company, and after reviewing the memorandum of association of ... Company, it became clear that the memorandum of association stated the activities of the company as (practicing the profession of consulting activities in the field of zakat and income tax, educational and educational consulting activities), and after reviewing the appeal list drafted on ... Company's printed materials. It turns out that it contains the company's activities announced to third parties, including (legal consultations), and since the reference to the company's services in providing legal consultations, filing lawsuits and appeals on behalf of others and other activities are limited to licensees according to the Companies Law and the Lawyers Law and their executive regulations, and since the company - according to the attached memorandum of association - is not authorized to practice the legal profession and legal consultations, which is a violation of the provisions of Articles is not authorized to practice the profession of law and legal



consultancy, which is a violation of the provisions of the Lawyers Law and its Executive Regulations, and Articles (2), (5), (7), (10), (197) and (201) of the Companies Law and its Executive Regulations, and since the appellant's agent is a licensed lawyer who submitted the appeal request and signed it on the official papers of the company.... The lawyer is not licensed to practice the legal profession, while he should have submitted applications and regulations on his own printouts as stipulated in Article (13/01) of the Executive Regulations of the Lawyers Law, which stipulates that "the lawyer must take his own papers to submit his writings to the authorities, and they must include his name, the name of the headquarters, branch office, license number and date, telephone numbers, mailbox, and zip code, and he must not submit any writing to the authorities on papers that do not include this, or papers that do not belong to him." since the firm, as the appellant's representative, is not licensed to practice law, the Circuit concludes that the Taxpayer's appeal is inadmissible procedurally because it was filed without standing.

Whereas, with regard to the Authority's appeal, upon reviewing the case documents and the appeal list submitted by the Authority, 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 means that the appeal is formally accepted because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, with regard to the Authority's appeal on the clause "Related Parties - Agency Records ... For travel and tourism) the Authority's appeal lies in the fact that it added the balance of related parties from the movement submitted by the Taxpayer and adopted the balance of the first or last period, whichever is less, considering the lunar calendar, and based on clause (1/2) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438H which stipulates that: "The Zakat base consists of all the Taxpayer's assets subject to Zakat, including: 2- The current account credited to the owner or partner at the beginning or end of the year, whichever is less, as well as the increase in the current account if its source is equity, or if it is financing a Acquisition asset." Based on clause (1/3) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 H, which states that: "The Zakat base consists of all the Taxpayer's assets subject to Zakat, including: 3. Loans of the owners or partners of the enterprise shall be treated as capital." Based on Article 20(3) of the Law, which states that "The burden of proving the correctness of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in the event that the Taxpayer is unable to prove the correctness of the clauses contained in his declaration, the Authority may not authorize



the clause whose correctness is not proven by the Taxpayer or make an discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it."based on the above, and the Circuit's review of the statutory texts, it found that the receivable owed to related parties is a source of financing and is considered one of the funds subject to the collection of Zakat, and therefore must be added to the Zakat base or used to finance assets deducted from the base, and the Authority added the balance of the related parties from the movement provided by the Taxpayer and approved the balance of the first or last period, whichever is less, considering the lunar calendar year. Since the related party account relates to the records of "Company ..." the records of the "Agency... The Circuit found that the Taxpayer submitted the draft lists related to Abha Private Hospital and did not submit the financial statements related to Al-Thumairi Travel and Tourism Agency for consideration of the balance, and based on what was mentioned, reliance will be placed on the submitted movement as it is approved by the Authority and there is no dispute about it the Circuit found that the Taxpayer did not dispute the Authority's statement that the balance was closed at the end of the year, which makes it clear that the lunar calendar turned on the balance of the first period and the Taxpayer did not present the opposite, which concludes the Circuit to accept the Authority's appeal by adding the balance of the first period in the amount of (319. 555 riyals),555 riyals and canceling the decision of the Adjudication Circuit regarding this clause.

With regard to the Authority's appeal on (donations for the year 2018), and where the Authority's appeal lies in its addition of unsupported donations to the net profit, based on paragraph (4) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438H, which stipulates the following: "Donations are considered a deductible expense when supporting documents are presented and their seriousness is verified." Based on the text of paragraph (3) of Article (20) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 H, which stipulates the following: "The burden of proving the authenticity of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in the event that the Taxpayer is unable to prove the authenticity of the clauses contained in his declaration, the Authority may not authorize the clause whose authenticity is not proven by the Taxpayer or make an discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it."based on the above, and in accordance with the above texts, it is clear that the donations that may be deducted from the Zakat base are donations that are documented after verifying their authenticity and seriousness, and since the dispute over this clause is a documentary dispute, the Authority accepted the documented donations in the amount of SR (920,812) and rejected the unsupported



donations in the amount of SR (2,576,308). Whereas the decision of the Adjudication Circuit concluded to modify the Authority's decision and accept the documented donations in the amount of (872,395) riyals and reject the remaining amount, and where the Authority confirmed that the documents submitted at the adjudication stage (sample of donations - governmental bodies, sample of donations - charitable societies, sample of donations - individuals) are the same documents submitted to the Authority and were previously accepted in the assessment for an amount exceeding the amount accepted by the Adjudication Circuit. The Circuit found that the Taxpayer did not respond to the Authority's argument regarding the acceptance of the same documents and merely maintained the amount accepted by the Authority in addition to his demand to accept the full amount of the donations included in the financial statements. After verifying the documents proving the payment of the donations in the amount of SAR(1,153,124), the Circuit partially accepted the Authority's appeal and amended the Circuit's decision to accept the deduction of the amount of the documented donations in the amount of SAR (1,153,124).

With regard to the Authority's appeal on the clause (travel ticket allowance for 2018), and where Article (70) of the Sharia Procedure Law promulgated by Royal Decree No. M/1 dated 22/01/1435 AH stipulates that "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the claim and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where this Circuit has established the Authority's request to leave the appeal as stated in the letter issued by the Authority in the supplementary memorandum, which includes the following: "The Authority wishes to inform the Honorable Circuit that its appeal with regard to the above clause specifically, and the consequent procedures for this clause as per the terms of the decision reached by the Adjudication Circuit, is left to its discretion." therefore, the Circuit must accept the abandonment of the litigation.

With regard to the Authority's appeal on the remaining clauses, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting them with what these reasons contain, it is



certain that it did not find any of the objections to the decision worthy of a response beyond what is contained in these reasons, and because it is established that the decision under appeal regarding the disputed clauses was consistent with the valid reasons on which it was based and sufficient to carry its judgment as the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and as this Circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Authority's appeal and uphold the decision of the Adjudication Circuit with respect to the remaining clauses, in accordance with its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Procedurally:

1- Inadmissibility of the appeal procedurally by the Taxpayer's ... Commercial Register No. (...), Unique number (...), against the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-1799) issued in Case No. (69605-2021-Z) related to Zakat fees for the years 2013 to 2018AD, because it was filed without status.

2- Accepting the appeal procedurally from the Zakat, Tax and Customs Authority, against the decision of the Second Circuit for adjudicating income tax violations and disputes in Riyadh, No. (ISR-2022-1799) issued in Case No. (69605-2021-Z) related to zakat fees for the years 2013 to 2018.

Secondly: On the Merits:

1- Accepting the abandonment of litigation with regard to the Authority's appeal on the (2018 ticket allocation) clause.

2- Accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit regarding the clause (Donations for 2018).

3- Regarding the Authority's appeal on the clause (Related Parties for 2018):

A- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Related Parties - records of the hospital and its branch).



B. Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Related Parties - Agency Records...). For travel and tourism) by adding the balance of the first term).

4- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Zakat paid for the years 2013 to 2017).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-179439

Case No. Z -179439-2023

Keywords:

Zakat - Adjustments to Net Profit - Rejection of VAT expense - Taxpayer's appeal accepted - accepting the Authority's Appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority (ZTCA) objected to the decision of the Second Circuit for the adjudication of income tax violations and disputes in Riyadh (ISR-2022- 93030), where the Authority's appeal on the clause (Refusal to deduct the backing loan granted to a subsidiary) is that it did not deduct the backing loan as the clause is a non-deductible clause, and on the clause (Refusal to deduct prepaid expenses) is that the Authority objects to the deduction of prepaid expenses shown in the financial statements under current assets as non-deductible expenses, and the Taxpayer's appeal lies on the clause (Refusal of VAT expense) as the company is not registered for VAT purposes. The Appellate Committee found that the company is not registered for VAT purposes, and that the correct treatment of loans according to the Zakat Regulation for 1440 AH. Is not to deduct the loans, as each company has an independent legal personality, and with regard to the clause (rejecting the deduction of the prepaid expenses), the prepaid expenses are classified as current assets and are operating expenses (office rent, insurance) with regard to the clause (Refusal to deduct prepaid expenses), the prepaid expenses are classified as current assets and are operating expenses (office rent, insurance, subscriptions) and not capital expenses, and therefore may not be deducted from the Zakat base. This means accepting the Taxpayer's appeal, accepting the Authority's appeal, and partially accepting the Authority's appeal with regard to the clause (refusal to deduct the subsidized loan granted to a subsidiary).



Document:

- Paragraph (3) of Article (4) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)
- Paragraph (4) of Article (5) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)
- Article (18) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)
- Paragraph (1) of Article (8) of [The Executive Regulations for Zakat Collection issued by Decision No. \(2216\) of the Minister of Finance dated 07/07/1440 AH.](#)

Facts:

The appeal filed on 21/02/2023 from (...), Civil Registry No. (...), as an agent under agency No. (...), and under law license No. (...), was considered.), and the appeal filed on 26/02/2023 from the Zakat, Tax and Customs Authority (ZTCA) against the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-93030) issued in Case No. (93030-2022-Z) related to the zakat fees for the years 2019 and 2020, in the lawsuit filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: accepting the lawsuit filed by the plaintiff /, Commercial Registration No. (...), against the defendant / Zakat, Tax and Customs Authority, procedurally.

Secondly: On the Merits:

1- Dismissing the lawsuit with regard to the VAT expense clause charged to the accounts for the years 2019 and 2020.

2- Dismissing the case with regard to the clause of consulting fees for the years 2019 and 2020.

3. Annulment of the defendant's action with respect to the donation expense clause (...) For 2020, according to the reasons.



4- Amending the defendant's action with regard to the subsidized loan granted to a subsidiary for the year 2019, by deducting the long-term loan provided to the subsidiary equal to the percentage of the plaintiff's ownership in it from the Zakat base, as stated in the reasons.

5- Revoke the Defendant's action with respect to the prepaid expenses clause for the years 2019 and 2020, as stated in the reasons.

6- Dismissing the lawsuit regarding the clause of loans for employees for the years 2019 and 2020.

7- Dismissal of the claim regarding the cash versus bank guarantee for the years 2019 and 2020.

This decision was not accepted by the Taxpayer (...). The Taxpayer's appeal is based on the clause "Rejection of the VAT expense charged to the accounts for the years 2019 and 2020." The Taxpayer explains that during the hearing before the adjudication committee, the representative of the Authority indicated that the Authority had obtained a certificate proving the company's VAT registration, but the certificate provided by the Authority is not applicable to the company and has no value whatsoever the VAT registration certificate provided by the Authority was issued automatically from Revenue's automated system without the company applying for VAT registration, in addition to the lack of applicability of the conditions and requirements for registration for VAT purposes, as its Revenues, mainly represented by its share of investment in subsidiaries, are exempt from VAT, the company clarified this matter to the Authority immediately after the Authority registered it for VAT purposes and requested to cancel the VAT registration, which the representative of the Authority completely ignored and did not address it, and therefore the company provided a copy of the email sent by the Authority to the company dated October 29, 2019, which confirms and proves that the company is not registered for VAT purposes, which is a conclusive document that includes confirmation to the Authority that the company is not registered for VAT purposes contrary to what the representative of the Authority claimed before the adjudication committee, which the adjudication committee ignored in its decision under this appeal, and the adjudication committee also the Taxpayer explains that the nature of these receivables are loans granted to the company's Saudi employees 2019 and 2020, which are non-interest-bearing loans to help them purchase housing units within the home ownership program and are secured by a mortgage on the purchased property. These loans are repayable in installments over a maximum period of (15) years, and the installments due within one year are classified under "Prepayments and other receivables" within current assets, such loans are amounts that the company was forced to lend to its employees in accordance with the reality of the requirements of the activity and the obligation of the company towards its employees, and therefore the funds are retained and unutilized



and are not used in trade offers and have not yet reached the end of the year in the company's liabilities. He requests that his appeal be accepted and the decision of the Adjudication Circuit be reversed. This decision was not accepted by the appellant (Zakat, Tax and Customs Authority) the Authority's appeal is based on the clause (Refusal to deduct the backing loan granted to a subsidiary company for the year 2019). The Authority explains that it did not deduct the backing loan in the amount of (339,291,000) riyals for the year 2019, and the clause was not accepted in previous years, as it is one of the non-deductible clauses in accordance with the provisions of paragraph (4) of Article 5 of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. 2216 dated 7/7/1440 AH, the Circuit issuing the decision concluded to amend the Authority's procedure by deducting a portion of the loans and advances provided to the subsidiary company from the zakat base equal to the percentage of its investment (65%) in the subsidiary company to which it provided the loan, and with reference to the financial statements of the investee company."....." it turns out that the clause is classified as non-current liabilities, and the loan is commercial and carries financing interest against the loan granted and is not provided as an investment, accordingly, the loan granted cannot be considered as an investment to be deducted, as it is financing for a commercial purpose and an interest rate is charged on it; therefore, the loan granted to the investor company must be recommended, and it is not considered additional or supportive financing, and even if the Circuit issuing the decision considers it as additional financing and as an investment, the clause is not deductible according to the provisions of paragraph (4) of Article (5) of the executive regulations of the Zakat Collection Law issued by Ministerial Resolution No. 2216 dated 7/7/1440 H, referred to above. With regard to the clause (Refusal to deduct prepaid expenses for the years 2019 and 2020), the Authority explains that it did not accept the deduction of prepaid expenses from Zakat in the amount of (508,000) riyals and (726,000) riyals for the years 2019 and 2020 as a non-deductible clause, as the Taxpayer stated in his objection that these expenses relate to expenses for more than one fiscal year, they are considered deferred expenses and take the judgment of capital expenditures, and the Authority referred to the financial statements, which showed that the prepaid expenses appear in addition, these expenses represent operating expenses (medical insurance, office rent, subscriptions) and are not capitalized and do not fall under the provisions of paragraph (6) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. 2216 dated 7/7/1440 AH, in this regard, the Authority responds that the Circuit's decision was incorrect; the Authority asserts that its procedure was correct as these expenses represent operating expenses (office rent, insurance expenses) and are not capital expenses that are deductible, noting that they are extracted from the trial balance provided by the Taxpayer, since these



prepaid expenses are considered operating expenses, and since the accrual basis of accounting requires that prepaid expenses be recognized as an asset of current assets and then periodically amortized and charged to income with the amortization expense annually in accordance with the principle of offsetting expenses with income this means that this expense has been taken into account when calculating the Zakat base since net income is one of the components of the Zakat base; in light of this, the entire balance of deferred expenses cannot be fully deducted from the Zakat base, but rather the realized expense is deducted periodically; this confirms the incorrectness of the Circuit's decision to accept a deduction for these expenses. She asks that her appeal be accepted and that the decision of the dismissal panel be reversed.

On Thursday, 05/16/2024 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 (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08/04/1445AH after reviewing the appeal request, the pleadings submitted, and the papers and documents contained in the case file, and at this session, the Circuit reviewed the request for postponement attached to the case file by the Authority. Accordingly, the Circuit decided to accept the request and grant the Authority a period of five working days ending on Thursday, 23/05/2024, and to grant the Taxpayer a subsequent period of five working days ending on Thursday, 30/05/2024, after which the written pleadings will be closed and the case will be submitted for deliberation and decision based on the documents contained in the case file, and the Circuit will not accept any new documents or memoranda submitted after the aforementioned date.

On Tuesday, 04/06/2024, 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 conferencing in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 A.H.; and by calling on the opponents, he/she attended/... National ID No. (...), as agent for the plaintiff by virtue of agency No. (...). (National ID No.), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) On March 19, 1445 A.H., the defendant's representative was asked about what it would like to add, and it stated that it adheres to what was previously submitted in this case. When the plaintiff's agent was presented with this information, he replied



that he was sticking to what had already been submitted in this case. When the parties were asked what they wished to add, they replied in the negative, and since the case is ripe for adjudication in its current state, the Circuit decides to close the arguments and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, 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 means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, regarding the Authority's appeal on the clause (Refusal to deduct the backing loan granted to a subsidiary company for the year 2019), and where the Authority's appeal lies in the fact that it did not deduct the backing loan, as the clause is one of the non-deductible clauses, and based on paragraph (3) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 07/07/1440 H, which stipulates that: "The zakat base for the Taxpayer who keeps commercial books consists of all his assets subject to zakat collection, including the following: "The debts owed by the Taxpayer classified as long-term and similar components of the zakat base, such as: government financing, commercial financing, creditors, payment notes, overdraft accounts, loans to owners or partners (including their current accounts)...", and based on paragraph (4) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated 07/07/1440 H, which stipulates that: "Investments in an establishment inside the Kingdom for non-trading purposes, if that establishment is registered with the Authority and is subject to the collection of Zakat in accordance with the Regulations, and assets that are financially leased in the commercial books of the lessor are not considered an investment that is deducted from the Zakat base, regardless of their classification in the financial statements, and neither are debit loans, supportive or additional financing and the like granted to the invested establishment considered an investment that is deducted from the Zakat base "Based on the above, and the Circuit's review of the documents attached to the case file, it is clear that the amount represents a support loan provided to the subsidiary company, and the dispute lies in the deduction of the support loan, as the Taxpayer demands its full deduction according to the financial statements of the company, as the subsidiary company has fully zakat 1440 AH these support loans provided by the parent company, but the Authority argues that the support loan should not be deducted as it is considered one of the non-deductible clauses and the clause is



classified within non-current liabilities and the loan is commercial and carries financing interest against the loan granted and is not provided as an investment and therefore not considered additional financing or a contribution.

With regard to the Authority's appeal on the clause (Refusal to deduct prepaid expenses for the years 2019 and 2020), the Authority's appeal is that it did not accept the deduction of prepaid expenses from the Zakat base as a non-deductible clause, and based on Article (18) of the Executive Regulations for Zakat Collection issued by Decision No. (2216) dated 7/7/1440 AH, which stipulates that: "The burden of proving the validity of the clauses and any other data contained in the declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the validity of the clauses contained in his declaration, the Authority may not authorize the clause that the Taxpayer does not prove to be valid or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it "Based on the above, the dispute between the parties lies in the Authority's objection to the deduction of prepaid expenses shown in the financial statements within current assets as non-deductible expenses, and that the expenses represent operating expenses consisting of medical insurance, office rent and subscriptions and not capital expenses, but the Taxpayer argues that they relate to more than one year and are therefore considered deferred expenses and take the rule of long-term capital expenses that may be deducted from the Zakat base, the Circuit's review of the Authority's appeal memorandum shows that the prepaid expenses are classified as current assets and are operational expenses (office rent, insurance, subscriptions) and not capital expenses, and therefore may not be deducted from the Zakat base, and since the Taxpayer did not provide evidence to the contrary, the Circuit concludes to accept the Authority's appeal and annul the decision of the Adjudication Circuit regarding this clause.

With regard to the Taxpayer's appeal on the clause (rejection of the VAT expense charged to the accounts for the years 2019 and 2020), and where the Taxpayer's appeal lies that the company is not registered for VAT purposes, and based on paragraph (1) of Article (8) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 07/07/1440 H, which stipulates that: "The following expenses may be deducted to determine the net result of the activity: 1- Ordinary and necessary expenses necessary for the activity, provided that the following controls are met: a. The alimony must be actual and supported by documents and evidence accepted by the Authority and verifiable, even if it relates to previous years. B. It must be related to the Taxpayer's activity, and not related to personal expenses or other activities not related to the Taxpayer. C. Not be capitalist in nature. If an expense of a capital nature is included in the



expenses, the result of the activity is adjusted, added to the fixed assets and amortized within the depreciation of the asset "The Taxpayer argues that the certificate provided by the Authority is not applicable to the company and has no value, as it was issued automatically from the automated system of the Revenue system, and that the Authority registered the company for VAT and after communicating with the Authority to cancel the registration because the conditions and requirements for registration did not apply, the Authority canceled its registration, which was confirmed by the Authority in its email sent to the company on 29/10/2019, which proves conclusively that the company is not registered for the purposes of VAT on 30/01/2024

With regard to the Taxpayer's appeal on the clause (not deducting the balance of loans to employees for the years 2019 and 2020), and where the Taxpayer's appeal lies in the fact that the funds are withheld and unutilized and are not used in trade offers and have not reached the due date in the company's possession, and based on paragraphs (e) and (f) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 07/07/1440H, which stipulates that: "Net fixed assets and their equivalents, including, but not limited to, the following: e. Employee housing owned by the Taxpayer. F. Housing loans paid to employees through employee housing support programs, if their contracts include a statement that the financing was through a good loan or a forward sale without the company accruing any financial profits or fees in excess of the original financing amount." based on the above, it is permissible to deduct housing loans paid to employees through employee housing support programs classified as fixed assets from the Zakat base, provided that these loans do not include fees in excess of the financing amount, with reference to the financial statements for the year 2019 (Note 9), it is clear that the loans represent non-interest-bearing housing loans and are secured by a mortgage on the properties purchased under the employee housing ownership program. Therefore, since the Zakat Regulation stipulates that housing loans paid to employees through employee housing support programs may be deducted, the Circuit concludes to accept the Taxpayer's appeal and cancel the decision of the Circuit of Determination regarding this clause.

With regard to the Taxpayer's and the Authority's appeal the Circuit has no fault in adopting the reasons for the contested decision without adding to them when it determines that these reasons do not contain anything new, because in upholding them, it is clear that the Circuit did not find any objections to the decision worthy of consideration

Whereas it is evident that the decision that is the subject of the appeal regarding the dispute regarding the contested clauses was consistent with the valid reasons on which it was based and sufficient to carry its



judgment, as the issuing Circuit scrutinized the dispute and reached the result it concluded in its operative part in light of the arguments raised before it, this Circuit concludes to reject the Taxpayer's and the Authority's appeal and uphold the decision of the Appellate Circuit with respect to the outcome of the remaining clauses, in accordance with its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from its submitter The Taxpayer/ (.....) Commercial registration number (...), unique number (...), and the Zakat, Tax and Customs Authority, against the decision of the second division regarding violations and disputes of income tax in Riyadh with number (ISR-2022-93030) issued in case number (2022-93030-Z) related to zakat assessments for the years 2019 and 2020.

Secondly: On the Merits:

- 1- Accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit and rejecting the Taxpayer's appeal with regard to the clause (rejecting the deduction of the subsidized loan granted to a subsidiary for 2019).
- 2- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit with regard to the clause "Expenses for donations (...) For 2020).
- 3- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (refusal to deduct the expenses paid in advance for the years 2019 and 2020).
- 4- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (rejection of the VAT expense charged to the accounts for 2019 and 2020).
- 5- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Consultancy fees for 2019 and 2020).
- 6- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (not deducting the balance of loans to employees for the years 2019 and 2020).
- 7- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (not deducting a cash insurance versus a bank guarantee for the years 2019 and 2020).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-168279

Case No. Z-2023-168279

Keywords:

Zakat - Adjustments to Net Profit - Cleared Clauses - Acceptance of Taxpayer's Appeal

Summary:

The Taxpayer's appeal against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Dammam City (IZD-2022-2428), where his appeal is based on the clause (Trade Creditors and Payment Notes, Other Creditors, and Amounts Due to Affiliates) (Excluding overcharged customs duties for the year 2007) to clarify that according to the Taxpayer's records, customs duty expenses include the value of customs duties from the customs declaration, (Local purchases declared within foreign purchases in the Zakat declaration), (Cost of materials cleared from customs under the name of the client/company...), and (Cost of materials cleared from customs under the name of the client/company...), and (Cost of materials cleared from customs under the client's name...) This is to clarify that the cost of imports/materials according to the books of accounts does not have to match the reality of the customs data. The Appellate Committee found that the Taxpayer submitted the contract agreement translated by an authorized translation office between (Company ...) And (company...) The contract stipulated that the Taxpayer would assist the supplier/manufacturer in facilitating the temporary import and re-export of the test equipment. This means accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit, and partially accepting the Taxpayer's appeal with regard to the clauses (trade creditors and payment notes, other creditors, and amounts owed to affiliates).

Document:

- Paragraph (4,5) of Article (1) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal filed on 09/01/2023 from ..., National ID No. (...) Was considered in his capacity as the statutory representative of the appellant company, he appealed the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Dammam City No. (IZD-2022-2428) issued in Case No. (Z-60512-2021) regarding the 2007 Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs:

Rejecting the plaintiff's objection in all the clauses at issue.

Since this decision was not accepted by the Taxpayer (Company ...), he filed a list of appeals, which included the following:

The Taxpayer disputes the decision of the Appellate Circuit, claiming that with regard to the clause (local purchases declared as foreign purchases in the Zakat declaration) and the clause (cost of materials that were cleared from customs under the name of the client/company ...), the Taxpayer disputes the decision of the Appellate Circuit and an clause (the cost of materials cleared from customs under the name of the customer/company...) And an clause (the cost of clearing materials from customs under the name of the customer/company...) And (the cost of materials cleared through customs by ...) The decision under appeal did not take into account the data and details provided by the Taxpayer to support his objection. The Taxpayer referred to his response memorandum submitted on October 25, 2022, and explained that it is not necessary for the cost of imports/materials according to the books of accounts to match the reality of the customs data for several fundamental reasons, and the Taxpayer stated that the Revenues achieved during 2007 amounted to (231,206,237 riyals), while the Authority excluded an amount of (214,596,317) riyals on account of purchases from abroad. Due to this, the Taxpayer practically has few deductible expenses. Therefore, the Taxpayer submitted a reconciliation of foreign purchases according to the Zakat declaration and foreign purchases from the customs statement, which shows that the material costs recorded by the company in its Zakat declaration consist of the following: - local purchases declared in the Zakat declaration for 2007 amounting to SAR (14,768,977), - The value of imports from the customs declaration for 2007 amounting to SAR(24,020,456), - The cost of materials that were cleared from customs under the name of the client/company. (SAR 38,775,595), - The cost of materials cleared from customs under the name of the customer/company. (46,788,230) SAR, - Cost of materials cleared from customs



under the name of the customer/company ... (34,162,185) SAR, - Cost of materials cleared from customs under the name of the customer/company ... (53,722,898) SAR, - The cost of materials cleared from customs through... (...) (5,812,867) SAR, the cost of materials that were cleared from customs under the names of other customers (20,565,566) SAR, the total cost of materials that the Taxpayer declared as foreign purchases in the 2007 Zakat return is equal to (238,616,774) SAR. The Taxpayer provided details of local purchases classified as overseas purchases in the Zakat declaration and details of overseas purchases as well as a detailed statement of invoices for clauses that were cleared through shipping service companies (e.g.. And others). He explained that since these materials were cleared from customs under the customer's name or through the service of shipping companies, their cost will not be included in the Taxpayer's customs declaration. He also explained that the above-mentioned total cost of the materials should be considered a deductible expense since these expenses meet the criteria in Article (5/1) of the Zakat Collection Regulation issued by Ministerial Decision No. (2082), so the Taxpayer requests permission to deduct the above costs for 2007 and issue an amended assessment. The Taxpayer claims that the decision under appeal did not take into consideration the data and details provided by the Taxpayer to support his objection. The Taxpayer referred to his response memorandum submitted on October 25, 2022 and explained that according to the Taxpayer's records, the customs duty expenses include the value of customs duties from the customs statement in addition to the customs duties paid by the Taxpayer during the year for the shipments/materials that were imported through the company. The Taxpayer also explained that the difference in customs duties should be considered as a deductible expense since these expenses meet the criteria in Article (5/1) of the Zakat Collection Regulation issued by Ministerial Decision No. 2082, so the Taxpayer requests permission to deduct the 2007 customs duties and issue an amended assessment. With regard to the clause (trade creditors and payment notes, other creditors, and amounts due to affiliates) the Taxpayer claims that the decision under appeal did not take into account the data and details provided by the Taxpayer to support his objection, and the Taxpayer referred to his response memorandum submitted on October 25, 2022, and explained that the Authority subjected the amounts that have already passed, however, its procedure was based on an assumption and without reviewing the movement of accounts payable balances, and the Taxpayer claims that the Authority's procedure is not justified based on the decision of the Board of Grievances No. (4505/2/Q) and the fact that Zakat is not obligatory on funds that are not owned by the Taxpayer and based on the circular circulated by the Grievance Court in addition, the Zakat Collection Regulation No. (2216) does not support the Authority's action. The Taxpayer presented the movement of credit balances, which shows that they were paid regularly during the year, and the end-



of-term balances arise from the credit balances due during the year, so it is only permissible to add the amounts that matured based on the attached movement and not the balance of the first or last period, whichever is less, and the Taxpayer indicated that what matured with regard to adding trade creditors and payment notes to the Zakat base is (173,694) riyals, (475,929) riyals for other creditors, and (882,203) riyals for the amount due to affiliates. Therefore, the Taxpayer requests the reversal of the decision of the Dissolution Circuit for the above reasons.

On Wednesday, 24/01/2024, the First Appellate Circuit for Income Tax Violations and Disputes met via video conferencing in accordance with the procedures for remote video litigation, based on the provisions of Article 15, Clause 2 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441AH after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, 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 formally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

Regarding the Taxpayer's appeal regarding the clause (local purchases declared as part of foreign purchases in the Zakat declaration), the Taxpayer argued that the decision under appeal did not take into consideration the data and details provided by the Taxpayer to support his objection. The Taxpayer referred to his response memorandum submitted on October 25, 2022, and explained that it is not necessary for the cost of imports/materials according to the books of accounts to match the reality of the customs data. Whereas paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 H, concerning the expenses that may be deducted on "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to



verify its validity, even if it relates to previous years. Based on the above, and upon reviewing the case file, it was found that the Taxpayer submitted a detailed statement of local purchases (Excel) indicating the name of the supplier and the supplier number that does not match the total amount of the dispute, as the total amount of suppliers submitted is (3,314,236) and the Taxpayer supplemented the total amount with accrued expenses of (10,269,905) riyals that cannot be matched, 269,905 riyals that cannot be matched, and the Taxpayer submitted six (6) samples of invoices that match the names of suppliers and amounts of (2,240,975) riyals, which led the Circuit to partially accept the Taxpayer's appeal and amend the decision of the Adjudication Circuit in this clause with the documents submitted by the Taxpayer in the amount of (2,240,975) riyals.

With regard to the Taxpayer's appeal regarding the clause (cost of materials cleared from customs under the name of the client/company...), the Taxpayer's appeal is that the decision under appeal did not take into consideration the data and details provided by the Taxpayer to support his objection, and the Taxpayer referred to his response memo dated October 25, 2022, and explained that it is not necessary for the cost of imports/materials according to the books of accounts to match the reality of the customs data. Whereas paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 H, concerning the expenses that may be deducted on "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the foregoing, and upon reviewing the case file and the documents and defenses it contains, it appears that the Taxpayer submitted a contract agreement translated by an authorized translation office between ... And (company...) The contract stipulated that the Taxpayer would assist the supplier/manufacturer in facilitating the temporary import and re-export of the test equipment. A review of page (2) 4-A shows the total cost of the materials (14,794,865) Swiss francs, equivalent to (63,304,376) SAR, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit on this clause.

Regarding the Taxpayer's appeal regarding the clause (cost of materials cleared from customs under the name of the client/company ...), the Taxpayer's appeal is that the decision under appeal did not take into consideration the data and details provided by the Taxpayer to support his objection, and the Taxpayer referred to his response memorandum dated October 25, 2022, and explained that it is not necessary for



the cost of imports/materials according to the books of accounts to match the reality of the customs data. Whereas paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 H, concerning the expenses that may be deducted on "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the above, and upon reviewing the case file and the documents and defenses it contains, it was found that the Taxpayer submitted the contract agreement translated by an accredited translation office, which showed that the contract clarifies the nature of the relationship and the amount, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit in this clause.

Regarding the Taxpayer's appeal regarding the clause (Cost of clearing materials from customs under the name of the customer/company...), the Taxpayer's appeal is that the decision under appeal did not take into consideration the data and details provided by the Taxpayer to support his objection, and the Taxpayer referred to his response memo dated October 25, 2022, and explained that it is not necessary for the cost of imports/materials according to the books of accounts to match the reality of the customs data. Whereas paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 H, concerning the expenses that may be deducted on "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the foregoing, and upon reviewing the case file and the documents and defenses it contains, it appears that the Taxpayer submitted a purchase order agreement with a translator from a translation office authorized by (...) He is referred to as the buyer, the Taxpayer (...) The agreement clarifies the nature of the relationship, as the buyer agreed to pay the supplier for its services performed in accordance with the scope of supply and services, including cost, insurance, and freight, which leads the Circuit to accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit on this clause.

With regard to the Taxpayer's appeal regarding the clause (cost of materials cleared from customs through ...), the Taxpayer's appeal is that the decision under appeal did not take into consideration the data and



details provided by the Taxpayer to support his objection, and the Taxpayer referred to his response memorandum submitted on October 25, 2022, and explained that it is not necessary for the cost of imports/materials according to the books of accounts to match the reality of the customs data. Whereas paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 H, concerning the expenses that may be deducted on "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the foregoing, and upon reviewing the case file and the documents and defenses it contains, it appears that the Taxpayer submitted a detailed statement of foreign purchases through shipping companies indicating the document number, invoice number, date of entry, import value and customs duties paid, totaling SR 5,812,867, and provided samples of customs duties represented in the customs statement and invoices corresponding to the submitted statement, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit on this clause.

Whereas, with regard to the Taxpayer's appeal regarding the clause (the total cost of materials that were cleared of customs under the names of other customers), the Circuit is not faulted for adopting the reasons for the decision under appeal without adding to them if it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the contents of these reasons, it is certain that it did not find any of the objections to the decision worth responding to more than what was included in these reasons, and since this is the case and it is proven that the decision under appeal regarding the dispute regarding the clause under appeal was in accordance with the valid reasons on which it was based and sufficient to carry its judgment the issuing circuit scrutinized the dispute and came to the conclusion it reached in the operative part of its decision, and since this circuit did not notice anything that requires a citation or comment on it in light of the defenses raised before it, this circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in the appeal with respect to the result it reached in this clause, bearing in mind the reasons it gave for it.

Regarding the Taxpayer's appeal regarding the clause (Exclusion of overcharged customs duties for the year 2007), the Taxpayer's appeal is that the decision under appeal did not take into consideration the data and details provided by the Taxpayer to support his objection. The Taxpayer referred to his response memorandum submitted on October 25, 2022, and explained that the customs duty expenses include,



according to the Taxpayer's records, the value of customs duties from the customs statement in addition to the customs duties paid during the year for the shipments/materials that were imported through ... Company and other shipping service providers. Whereas paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 H, concerning the expenses that may be deducted on "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the above, and since this clause is related to (the cost of materials cleared through customs by ...) In which the Circuit accepts the Taxpayer's appeal for submitting documents in support of his objection, which results in the Circuit accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit in this clause.

Regarding the Taxpayer's appeal regarding the clause (trade creditors and payment notes, other creditors, and amounts due to affiliates), the Taxpayer referred to his response memorandum submitted on October 25, 2022, and explained that the Authority has subjected the amounts that have come due, however, its procedure was based on an assumption and without reviewing the movement of the accounts payable balances. Where the fatwa issued with number (3077/2) dated 08/11/1426 AH stated: "The evidence for the obligation of zakat is general and includes all zakat able assets, and there is no valid evidence to exclude debts from that, because the creditor pays zakat on the money he owns which is owed by the debtor, while the debtor pays zakat on another money he owns and has in his possession and can dispose of, and there is a difference between the money in a person's hand and the money in his debt." And where paragraph (5) of the circular of the authority number (583/16/1432) dated 29/01/1432 AH related to the zakat treatment of creditor elements shown in the financial statements according to the provisions of the fatwa number (22665) dated 15/04/1434 AH stated: "All creditor elements shown in the financial statements are added to the zakat base whenever a year has passed on them and the conditions of the fatwa are met," and where paragraph (5) of clause (First) of article (fourth) of the executive regulation for collecting zakat issued by ministerial decision number (2082) dated 01/06/1438 AH stated: "The zakat base consists of all the Taxpayer's assets subject to zakat, including: 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade and a year has passed on it." Based on the above, commercial debts are



considered one of the components of the zakat base, provided that a year has passed on them or they are used to finance the assets deducted from the zakat base. The Taxpayer argues that zakat is not obligatory on assets not owned by the company and that this treatment leads to a reluctance to pay zakat, knowing that there is a difference between ordinary financial transactions and debts arising from loan agreements between the lender and the borrower, because the essence of the obligation and what it entails is the debtor's liability for the debt for benefiting from funds provided to him or remaining in his ownership, thus he must pay zakat on what he has at the end of the year, and the creditor's debt is a right in the debtor's liability, thus it is owned by him in the liability, and therefore the money has not been zakat-ed twice as claimed by the Taxpayer, and this is not affected by the Taxpayer's argument of the absence of complete ownership of those balances. Upon reviewing the documents of the case and the defenses contained therein, it is clear that the Taxpayer submitted the financial statements for the years in dispute and provided the movement of balances (Excel) and submitted a copy of the accounting system for the movement of related parties, where it became clear that a year has passed on the commercial creditors and payment papers amounting to (173,964) riyals, and other creditors amounting to (475,929) riyals, and the amount due to affiliated entities amounting to (88,203) riyals, which leads the committee to partially accept the Taxpayer's appeal and amend the decision of the committee in this clause.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company ..., commercial register (...), Unique number (...) Against the decision of the first circuit for adjudicating income tax violations and disputes in Dammam with number (IZD-2022-2428) issued in case number (Z-60512-2021) related to the zakat assessment for the year 2007.

Second: On the Merits:

- 1- Partially accept the Taxpayer's appeal and amend the decision of the committee regarding the clause (local purchases declared within external purchases in the zakat declaration).
- 2- Accept the Taxpayer's appeal and cancel the decision of the committee regarding the clause (cost of materials cleared from customs under the name of the client / company ...).



- 3- Accept the Taxpayer's appeal and cancel the decision of the committee regarding the clause (cost of materials cleared from customs under the name of the client / company ...).
- 4- Accept the Taxpayer's appeal and cancel the decision of the committee regarding the clause (cost of clearing materials from customs under the name of the client / company ...).
- 5- Accept the Taxpayer's appeal and cancel the decision of the committee regarding the clause (cost of materials cleared from customs through the company ...).
- 6- Reject the Taxpayer's appeal and uphold the decision of the committee regarding the clause (total cost of materials cleared from customs under the names of other clients).
- 7- Accept the Taxpayer's appeal and cancel the decision of the committee regarding the clause (exclusion of excess customs duties for the year 2007).
- 8- Partially accept the Taxpayer's appeal and amend the decision of the committee regarding the clause (commercial creditors and payment papers, and the clause other creditors, and the clause amounts due to affiliated entities).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-168279

Case No. Z-2023-168279

Keywords:

Zakat - Adjustments to net profit - Exclusion of overcharged customs duties - Acceptance of Taxpayer's appeal

Summary:

The Taxpayer's appeal against the decision of the First Circuit of Income Tax Violations and Disputes in Dammam (No.IZD-2022-2428), where his appeal is based on the clause (trade creditors and payment notes, other creditors, and amounts owed to affiliates) because the Authority subjected the amounts that have already passed, the clause (local purchases declared under foreign purchases in the Zakat declaration), the clause (cost of materials cleared from customs under the name of the client/company...), and the clause (cost of materials cleared from customs under the name of the client/company...) To clarify that the cost of imports/materials according to the books of accounts does not have to match the customs declaration, and the clause "Exclusion of overcharged customs duties for 2007" to clarify that the customs duty expense includes, according to the Taxpayer's records, the value of customs duties according to the customs declaration. The Appellate Committee found that this clause relates to (the cost of materials cleared through customs by ...) In which the Circuit ruled to accept the Taxpayer's appeal for submitting documents in support of his objection. This means accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit, and partially accepting the Taxpayer's appeal with regard to the clauses (trade creditors and payment notes, other creditors, and amounts owed to affiliates).

Document:

- Paragraph (1) of Article (4,5) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal filed on 09/01/2023 from ..., National ID No. (...) Was considered in his capacity as the statutory representative of the appellant company, he appealed the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Dammam City No. (IZD-2022-2428) issued in Case No. (Z-60512-2021) regarding the 2007 Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs:

Rejecting the plaintiff's objection in all the clauses at issue.

Since this decision was not accepted by the Taxpayer (Company ...), he filed a list of appeals, which included the following:

The Taxpayer disputes the decision of the Appellate Circuit, claiming that with regard to the clause (local purchases declared as foreign purchases in the Zakat declaration) and the clause (cost of materials that were cleared from customs under the name of the client/company ...), the Taxpayer disputes the decision of the Appellate Circuit and an clause (the cost of materials cleared from customs under the name of the customer/company...) And an clause (the cost of clearing materials from customs under the name of the customer/company...) And (the cost of materials cleared through customs by ...) The decision under appeal did not take into account the data and details provided by the Taxpayer to support his objection. The Taxpayer referred to his response memorandum submitted on October 25, 2022, and explained that it is not necessary for the cost of imports/materials according to the books of accounts to match the reality of the customs data for several fundamental reasons, and the Taxpayer stated that the Revenues achieved during 2007 amounted to (231,206,237 riyals), while the Authority excluded an amount of (214,596,317) riyals on account of purchases from abroad. Due to this, the Taxpayer practically has few deductible expenses. Therefore, the Taxpayer submitted a reconciliation of foreign purchases according to the Zakat declaration and foreign purchases from the customs statement, which shows that the material costs recorded by the company in its Zakat declaration consist of the following: - local purchases declared in the Zakat declaration for 2007 amounting to SAR (14,768,977), - The value of imports from the customs declaration for 2007 amounting to SAR(24,020,456) - The cost of materials that were cleared from customs under the name of the client/company. (SAR 38,775,595), - The cost of materials cleared from customs under the name of the customer/company. (46,788,230) SAR, - Cost of materials cleared from customs



under the name of the customer/company ... (34,162,185) SAR, - Cost of materials cleared from customs under the name of the customer/company ... (53,722,898) SAR, - The cost of materials cleared from customs through... (...) (5,812,867) SAR, the cost of materials that were cleared from customs under the names of other customers (20,565,566) SAR, the total cost of materials that the Taxpayer declared as foreign purchases in the 2007 Zakat return is equal to (238,616,774) SAR. The Taxpayer provided details of local purchases classified as overseas purchases in the Zakat declaration and details of overseas purchases as well as a detailed statement of invoices for clauses that were cleared through shipping service companies (e.g.... And others). He explained that since these materials were cleared from customs under the customer's name or through the service of shipping companies, their cost will not be included in the Taxpayer's customs declaration. He also explained that the above-mentioned total cost of the materials should be considered a deductible expense since these expenses meet the criteria in Article (5/1) of the Zakat Collection Regulation issued by Ministerial Decision No. (2082), so the Taxpayer requests permission to deduct the above costs for 2007 and issue an amended assessment. The Taxpayer claims that the decision under appeal did not take into consideration the data and details provided by the Taxpayer to support his objection. The Taxpayer referred to his response memorandum submitted on October 25, 2022 and explained that according to the Taxpayer's records, the customs duty expenses include the value of customs duties from the customs statement in addition to the customs duties paid by the Taxpayer during the year for the shipments/materials that were imported through the company. The Taxpayer also explained that the difference in customs duties should be considered as a deductible expense since these expenses meet the criteria in Article (5/1) of the Zakat Collection Regulation issued by Ministerial Decision No. 2082, so the Taxpayer requests permission to deduct the 2007 customs duties and issue an amended assessment. With regard to the clause (trade creditors and payment notes, other creditors, and amounts due to affiliates) the Taxpayer claims that the decision under appeal did not take into account the data and details provided by the Taxpayer to support his objection, and the Taxpayer referred to his response memorandum submitted on October 25, 2022, and explained that the Authority subjected the amounts that have already passed, however, its procedure was based on an assumption and without reviewing the movement of accounts payable balances, and the Taxpayer claims that the Authority's procedure is not justified based on the decision of the Board of Grievances No. (4505/2/Q) and the fact that Zakat is not obligatory on funds that are not owned by the Taxpayer and based on the circular (1/2/8443/2) circulated by the Grievance Court in addition, the Zakat Collection Regulation No. (2216) does not support the Authority's action. The Taxpayer presented the movement of credit balances, which shows that they were paid regularly during the



year, and the end-of-term balances arise from the credit balances due during the year, so it is only permissible to add the amounts that matured based on the attached movement and not the balance of the first or last period, whichever is less, and the Taxpayer indicated that what matured with regard to adding trade creditors and payment notes to the Zakat base is (173,694) riyals, (475,929) riyals for other creditors, and (882,203) riyals for the amount due to affiliates. Therefore, the Taxpayer requests the reversal of the decision of the Dissolution Circuit for the above reasons.

On Wednesday, 24/01/2024, the First Appellate Circuit for Income Tax Violations and Disputes met via video conferencing in accordance with the procedures for remote video litigation, based on the provisions of Article 15, Clause 2 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, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, 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 formally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

Regarding the Taxpayer's appeal regarding the clause (local purchases declared as part of foreign purchases in the Zakat declaration), the Taxpayer argued that the decision under appeal did not take into consideration the data and details provided by the Taxpayer to support his objection. The Taxpayer referred to his response memorandum submitted on October 25, 2022, and explained that it is not necessary for the cost of imports/materials according to the books of accounts to match the reality of the customs data. Whereas paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 H, concerning the expenses that may be deducted on "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to



verify its validity, even if it relates to previous years. Based on the above, and upon reviewing the case file, it was found that the Taxpayer submitted a detailed statement of local purchases (Excel) indicating the name of the supplier and the supplier number that does not match the total amount of the dispute, as the total amount of suppliers submitted is (3,314,236) and the Taxpayer supplemented the total amount with accrued expenses of (10,269,905) riyals that cannot be matched, 269,905 riyals that cannot be matched, and the Taxpayer submitted six (6) samples of invoices that match the names of suppliers and amounts of (2,240,975) riyals, which led the Circuit to partially accept the Taxpayer's appeal and amend the decision of the Adjudication Circuit in this clause with the documents submitted by the Taxpayer in the amount of (2,240,975) riyals.

With regard to the Taxpayer's appeal regarding the clause (cost of materials cleared from customs under the name of the client/company...), the Taxpayer's appeal is that the decision under appeal did not take into consideration the data and details provided by the Taxpayer to support his objection, and the Taxpayer referred to his response memo dated October 25, 2022, and explained that it is not necessary for the cost of imports/materials according to the books of accounts to match the reality of the customs data. Whereas paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 H, concerning the expenses that may be deducted on "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the foregoing, and upon reviewing the case file and the documents and defenses it contains, it appears that the Taxpayer submitted a contract agreement translated by an authorized translation office between ... And (company...) The contract stipulated that the Taxpayer would assist the supplier/manufacturer in facilitating the temporary import and re-export of the test equipment. A review of page (2) 4-A shows the total cost of the materials (14,794,865) Swiss francs, equivalent to (63,304,376) SAR, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit on this clause.

Regarding the Taxpayer's appeal regarding the clause (cost of materials cleared from customs under the name of the client/company ...), the Taxpayer's appeal is that the decision under appeal did not take into consideration the data and details provided by the Taxpayer to support his objection, and the Taxpayer referred to his response memorandum dated October 25, 2022, and explained that it is not necessary for



the cost of imports/materials according to the books of accounts to match the reality of the customs data. Whereas paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 H, concerning the expenses that may be deducted on "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the above, and upon reviewing the case file and the documents and defenses it contains, it was found that the Taxpayer submitted the contract agreement translated by an accredited translation office, which showed that the contract clarifies the nature of the relationship and the amount, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit in this clause.

Regarding the Taxpayer's appeal regarding the clause (Cost of clearing materials from customs under the name of the customer/company...), the Taxpayer's appeal is that the decision under appeal did not take into consideration the data and details provided by the Taxpayer to support his objection, and the Taxpayer referred to his response memo dated October 25, 2022, and explained that it is not necessary for the cost of imports/materials according to the books of accounts to match the reality of the customs data. Whereas paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 H, concerning the expenses that may be deducted on "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the foregoing, and upon reviewing the case file and the documents and defenses it contains, it appears that the Taxpayer submitted a purchase order agreement with a translator from a translation office authorized by (...) He is referred to as the buyer, the Taxpayer (...) The agreement clarifies the nature of the relationship, as the buyer agreed to pay the supplier for its services performed in accordance with the scope of supply and services, including cost, insurance, and freight, which leads the Circuit to accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit on this clause.

With regard to the Taxpayer's appeal regarding the clause (cost of materials cleared from customs through ...), the Taxpayer's appeal is that the decision under appeal did not take into consideration the data and



details provided by the Taxpayer to support his objection, and the Taxpayer referred to his response memorandum submitted on October 25, 2022, and explained that it is not necessary for the cost of imports/materials according to the books of accounts to match the reality of the customs data. Whereas paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 H, concerning the expenses that may be deducted on "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the foregoing, and upon reviewing the case file and the documents and defenses it contains, it appears that the Taxpayer submitted a detailed statement of foreign purchases through shipping companies indicating the document number, invoice number, date of entry, import value and customs duties paid, totaling SR (5,812,867), and provided samples of customs duties represented in the customs statement and invoices corresponding to the submitted statement, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit on this clause.

Whereas, with regard to the Taxpayer's appeal regarding the clause (the total cost of materials that were cleared of customs under the names of other customers), the Circuit is not faulted for adopting the reasons for the decision under appeal without adding to them if it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the contents of these reasons, it is certain that it did not find any of the objections to the decision worth responding to more than what was included in these reasons, and since this is the case and it is proven that the decision under appeal regarding the dispute regarding the clause under appeal was in accordance with the valid reasons on which it was based and sufficient to carry its judgment the issuing circuit scrutinized the dispute and came to the conclusion it reached in the operative part of its decision, and since this circuit did not notice anything that requires a citation or comment on it in light of the defenses raised before it, this circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in the appeal with respect to the result it reached in this clause, bearing in mind the reasons it gave for it.

Regarding the Taxpayer's appeal regarding the clause (Exclusion of overcharged customs duties for the year 2007), the Taxpayer's appeal is that the decision under appeal did not take into consideration the data and details provided by the Taxpayer to support his objection. The Taxpayer referred to his response memorandum submitted on October 25, 2022, and explained that the customs duty expenses include,



according to the Taxpayer's records, the value of customs duties from the customs statement in addition to the customs duties paid during the year for the shipments/materials that were imported through ... Company and other shipping service providers. Whereas paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 H, concerning the expenses that may be deducted on "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the above, and since this clause is related to (the cost of materials cleared through customs by ...) In which the Circuit accepts the Taxpayer's appeal for submitting documents in support of his objection, which results in the Circuit accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit in this clause.

Regarding the Taxpayer's appeal regarding the clause (trade creditors and payment notes, other creditors, and amounts due to affiliates), the Taxpayer referred to his response memorandum submitted on October 25, 2022, and explained that the Authority has subjected the amounts that have come due, however, its procedure was based on an assumption and without reviewing the movement of the accounts payable balances. Where the fatwa issued with number (3077/2) dated 08/11/1426 AH stated: "The evidence for the obligation of zakat is general and includes all zakat able assets, and there is no valid evidence to exclude debts from that, because the creditor pays zakat on the money he owns which is owed by the debtor, while the debtor pays zakat on another money he owns and has in his possession and can dispose of, and there is a difference between the money in a person's hand and the money in his debt." And where paragraph (5) of the circular of the authority number (583/16/1432) dated 29/01/1432 AH related to the zakat treatment of creditor elements shown in the financial statements according to the provisions of the fatwa number (22665) dated 15/04/1434 AH stated: "All creditor elements shown in the financial statements are added to the zakat base whenever a year has passed on them and the conditions of the fatwa are met," and where paragraph (5) of clause (First) of article (fourth) of the executive regulation for collecting zakat issued by ministerial decision number (2082) dated 01/06/1438 AH stated: "The zakat base consists of all the Taxpayer's assets subject to zakat, including: 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade and a year has passed on it." Based on the above, commercial debts are



considered one of the components of the zakat base, provided that a year has passed on them or they are used to finance the assets deducted from the zakat base. The Taxpayer argues that zakat is not obligatory on assets not owned by the company and that this treatment leads to a reluctance to pay zakat, knowing that there is a difference between ordinary financial transactions and debts arising from loan agreements between the lender and the borrower, because the essence of the obligation and what it entails is the debtor's liability for the debt for benefiting from funds provided to him or remaining in his ownership, thus he must pay zakat on what he has at the end of the year, and the creditor's debt is a right in the debtor's liability, thus it is owned by him in the liability, and therefore the money has not been zakat-ed twice as claimed by the Taxpayer, and this is not affected by the Taxpayer's argument of the absence of complete ownership of those balances. Upon reviewing the documents of the case and the defenses contained therein, it is clear that the Taxpayer submitted the financial statements for the years in dispute and provided the movement of balances (Excel) and submitted a copy of the accounting system for the movement of related parties, where it became clear that a year has passed on the commercial creditors and payment papers amounting to (173,964) riyals, and other creditors amounting to (475,929) riyals, and the amount due to affiliated entities amounting to (88,203) riyals, which leads the committee to partially accept the Taxpayer's appeal and amend the decision of the committee in this clause.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company ..., commercial register (...), Unique number (...) Against the decision of the first circuit for adjudicating income tax violations and disputes in Dammam with number (IZD-2022-2428) issued in case number (Z-60512-2021) related to the zakat assessment for the year 2007.

Second: On the Merits:

- 1- Partially accept the Taxpayer's appeal and amend the decision of the committee regarding the clause (local purchases declared within external purchases in the zakat declaration).
- 2- Accept the Taxpayer's appeal and cancel the decision of the committee regarding the clause (cost of materials cleared from customs under the name of the client / company ...).



- 3- Accept the Taxpayer's appeal and cancel the decision of the committee regarding the clause (cost of materials cleared from customs under the name of the client / company ...).
- 4- Accept the Taxpayer's appeal and cancel the decision of the committee regarding the clause (cost of clearing materials from customs under the name of the client / company ...).
- 5- Accept the Taxpayer's appeal and cancel the decision of the committee regarding the clause (cost of materials cleared from customs through the company ...).
- 6- Reject the Taxpayer's appeal and uphold the decision of the committee regarding the clause (total cost of materials cleared from customs under the names of other clients).
- 7- Accept the Taxpayer's appeal and cancel the decision of the committee regarding the clause (exclusion of excess customs duties for the year 2007).
- 8- Partially accept the Taxpayer's appeal and amend the decision of the committee regarding the clause (commercial creditors and payment papers, and the clause other creditors, and the clause amounts due to affiliated entities).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2023- 94578

Case No. Z-2022-94578

Keywords:

Zakat - Adjustments to Net Profit seasonal Labor Costs - Taxpayer's Appeal Rejected accepting the Authority's Appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority objected to the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam (IZD-2021-1943) , where the Taxpayer's appeal lies on the clause (costs of pilgrims' gifts), claiming that this clause in the internal pilgrims' activity is neither a recreational nor optional clause, but rather an expense imposed on internal pilgrims' companies according to the Ministry of Hajj regulations, and the Authority's appeal lies on the clause (cost of seasonal labor), claiming that the Adjudication Circuit did not conduct a thorough examination, did not clarify what type of samples or their date, and did not request a certified public accountant's endorsement of them. The Authority maintains for years of 1436AH and 1437AH its appeal for failure to submit documents, and accordingly, referring to the case file, it became clear that all the documents submitted by the Taxpayer regarding the above clause are for the years 1438 AH and 1439 AH only, and no documents were submitted in relation to the other years. This means that the Taxpayer's appeal will be rejected and the Authority's appeal will be accepted.

Document:

- Paragraph (1) of Article (5) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal filed on 07/02/2022 by the Zakat, Tax and Customs Authority and the appeal filed on 18/03/2022 by ...in his capacity as the director of the appellant company according to its articles of incorporation, on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam City No. (IZD-2021-1943) issued in Case No. (Z-16565-2020) related to the Zakat assessment for the years 1436H to 1439H, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority (ZTCA):

- 1- Amending the defendant's decision regarding the clause of calculating the amount of Zakat paid for the year 1438 AH.
- 2- Annul the defendant's decision regarding the seasonal labor cost clause.
- 3-Deny the plaintiff's objection with respect to the Pilgrims' Gift Costs clause.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

The Taxpayer claims that this clause is the only clause for which he has only temporary invoices from the agent of the Chinese factory from which the gifts were imported, and due to the disappearance of the agent and the company's loss of large sums of money as a result, he tried throughout the past period to reach the factory until they were contacted and agreed to provide the Taxpayer with invoices for these gifts and attached them (two invoices) to make these invoices the only document that was not previously attached because he was unable to obtain it due to import issues and others, therefore, he requests the cancellation of the Authority's decision to re-establish the Zakat assessment on the mentioned gifts clause, as this clause in the activity of internal pilgrims is not a recreational or optional clause, but an expense imposed on internal pilgrims companies according to the regulation of the Ministry of Hajj, therefore, the Taxpayer requests the reversal of the decision of the Circuit of Determination of the clauses under appeal for the above reasons.

The decision was not accepted by the Zakat, Tax and Customs Authority, which filed its appeal against the challenged decision by means of an appeal regulation that included the following summary: with regard to Authority's appeal against the decision of the Adjudication Circuit, its appeal lies with regard to (the cost of seasonal labor). Authority explains that the Adjudication Circuit reviewed samples and not the entire clause,



as it did not conduct a thorough examination, did not clarify the type and date of these samples, and did not request the certification of a chartered accountant on them. Authority also appeals the clause (formality) and the clause (calculating the amount of Zakat paid for the year 1438H).

On Thursday, December 21, 2023 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision On the merits, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds

upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, 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 means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, with regard to the Authority's appeal regarding the clause (calculation of the amount of Zakat paid for the year 1438 AH) and where Article (70) of the Sharia Procedure Law issued by Royal Decree No. M/1 dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the case and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where this Circuit has established the Authority's request to leave the appeal as stated in the letter issued by it in the supplementary memorandum containing the following: "In the event that the Circuit overrides the formalities, the Authority would like to inform the Honorable Circuit that its appeal in relation to the above-



mentioned clause in particular, and the consequences of the Authority's appeal in relation to this clause, has been dismissed by the Circuit in accordance with the reasoning of the decision of the Adjudication Circuit." therefore, the Circuit must accept the abandonment of the litigation.

Whereas, with regard to the Authority's appeal regarding the clause (Cost of Seasonal Labor), the Authority's appeal lies in objecting to the decision made by the Adjudication Circuit regarding this clause; it claims that the Adjudication Circuit reviewed samples and not the entire clause, as it did not carry out a thorough examination, did not clarify what kind of samples or the date, and did not require a certified public accountant to certify them. Whereas paragraph (1) of Article (5) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 H, concerning the expenses that may be deducted, stipulates that "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the above, it is clear that the Authority abandoned its appeal regarding the years 1438H and 1439H for the Taxpayer's submission of supporting documents, and regarding the years 1436H and 1437H, the Authority maintains its appeal for failure to submit documents, and accordingly, with reference to the case file, it became clear that all the documents submitted by the Taxpayer regarding the above clause are for the years 1438H and 1439H only, and he did not submit any documents regarding the other years 1438 A.H. and 1439 A.H. only, and no document was submitted for the other years, which leads the Circuit to accept the Authority's appeal regarding the years 1436 A.H. and 1437 A.H. because the Taxpayer did not provide documentary proof of these expenses, cancel the decision of the Dispute Resolution Circuit regarding it, and accept the abandonment of the litigation regarding the appeal for the years 1438 A.H. and 1439 A.H.

With regard to the Taxpayer's appeal regarding the clause (Pilgrims' Gift Costs), the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause; he claims that this clause in the internal pilgrims' activity is neither a recreational nor optional clause, but an expense imposed on the internal pilgrims' companies according to the Ministry of Hajj's regulations. Whereas paragraphs (1/a) and (1/b) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 H, concerning the expenses that may be deducted, stipulate that "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- It must be an actual



expense supported by documentary evidence or other indications that enable the authority to verify its validity, even if related to previous years. B. They must be related to the activity and not related to personal expenses or other activities "Based on the above, it is clear that the Authority accepted the Taxpayer's objection for the years 1437H, 1438H, and 1439H only for submitting supporting documents, while for the year 1436H, the Authority maintains its rejection of the Taxpayer's objection for not submitting supporting invoices, and accordingly, with reference to the case file, it is clear that the Authority's reference to the failure to submit supporting invoices is correct the Circuit therefore concludes to reject the Taxpayer's appeal for the year 1436H for failure to provide documentary proof of these expenses, uphold the Circuit's decision thereon, and establish the end of the dispute for the years 1437H, 1438H, and 1439H for the Authority's acceptance of the Taxpayer's appeal.

Regarding the Authority's appeal on the remaining clauses in the case. Whereas, there is no fault on the part of the Circuit in adopting the reasons for the decision under appeal without adding to them, if it assesses that these reasons do not contain anything new, because in upholding them with what these reasons contain, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and because it is proven that the decision under appeal regarding the disputed clauses was in accordance with the sound reasons on which it was based and sufficient to carry its judgment, as the issuing Circuit scrutinized the dispute in it and reached the result in its operative part since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants commenting on it in light of the arguments raised before it, this Circuit concludes to reject the Authority's appeal and uphold the decision of the Adjudication Circuit with respect to the outcome of the remaining clauses in the case, bearing in mind its reasons for doing so. Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer / Company ..., Commercial Registration (...) , Unique Number (...) And the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the first circuit regarding violations and disputes of income tax in Riyadh number (IZD-2021-1943) issued in case number (Z-16565-2020) related to the zakat assessment for the years from 1436AH to 1439AH.

Secondly: On the Merits:



1- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit with regard to the (formalities) clause.

2- Accepting the abandonment of litigation regarding the Authority's appeal on the clause (calculating the amount of Zakat paid for the year 1438 AH).

3- Regarding the Authority's appeal on the (seasonal labor cost) clause:

A- Accepting the appeal and canceling the decision of the Adjudication Circuit for the years 1436 AH and 1437 AH.

B- Acceptance of abandonment of litigation in relation to appeals for the years 1438 AH and 1439 AH.

4- Regarding the Taxpayer's appeal on the clause (costs of pilgrims' gifts):

A- Rejecting the appeal and upholding the decision of the Adjudication Circuit regarding the year 1436 AH.

B. Proving the end of the dispute regarding the appeal for the years 1437H, 1438H, and 1439H.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2023-94578

Case No. Z-2022-94578

Keywords:

Zakat - Adjustments to net profit - pilgrim Gift Costs - Rejection of Taxpayer's Appeal - Rejection of Taxpayer's Appeal accepting the Authority's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority (ZTCA) objected to the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Dammam (IZD-2021-1943) , where the Authority's appeal lies on the clause (cost of seasonal labor), as it claims that the Adjudication Circuit reviewed samples and not the entire clause, as it did not conduct a thorough examination, did not clarify the type of these samples or their date, and did not request a certified public accountant to certify them, and the Taxpayer's appeal lies on the clause (costs of gifts for pilgrims), as he claims that this clause in the internal pilgrims activity is neither a recreational nor optional clause, but an expense imposed on internal pilgrims companies according to the Ministry of Hajj regulations. The Appellate Committee found that the Authority maintained its rejection of the Taxpayer's objection due to the failure to submit supporting invoices, and therefore, by referring to the case file, it became clear that the Authority's reference to the Taxpayer's failure to submit supporting invoices for 1436 A.H. was correct. This means that the Taxpayer's appeal will be rejected and the Authority's appeal will be accepted.

Document:

- Paragraph (1) of Article (5) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal filed on 07/02/2022 by the Zakat, Tax and Customs Authority and the appeal filed on 18/03/2022 by ...in his capacity as the director of the appellant company according to its articles of incorporation, on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam City No. (IZD-2021-1943) issued in Case No. (Z-16565-2020) related to the Zakat assessment for the years 1436H to 1439H, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority (ZTCA):

- 1- Amending the defendant's decision regarding the clause of calculating the amount of Zakat paid for the year 1438 AH.
- 2- Annul the defendant's decision regarding the seasonal labor cost clause.
- 3-Deny the plaintiff's objection with respect to the Pilgrims' Gift Costs clause.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

The Taxpayer claims that this clause is the only clause for which he has only temporary invoices from the agent of the Chinese factory from which the gifts were imported, and due to the disappearance of the agent and the company's loss of large sums of money as a result, he tried throughout the past period to reach the factory until they were contacted and agreed to provide the Taxpayer with invoices for these gifts and attached them (two invoices) to make these invoices the only document that was not previously attached because he was unable to obtain it due to import issues and others, therefore, he requests the cancellation of the Authority's decision to re-establish the Zakat assessment on the mentioned gifts clause, as this clause in the activity of internal pilgrims is not a recreational or optional clause, but an expense imposed on internal pilgrims companies according to the regulation of the Ministry of Hajj, therefore, the Taxpayer requests the reversal of the decision of the Circuit of Determination of the clauses under appeal for the above reasons.

The decision was not accepted by the Zakat, Tax and Customs Authority, which filed its appeal against the challenged decision by means of an appeal regulation that included the following summary: with regard to Authority's appeal against the decision of the Adjudication Circuit, its appeal lies with regard to (the cost of seasonal labor). Authority explains that the Adjudication Circuit reviewed samples and not the entire clause,



as it did not conduct a thorough examination, did not clarify the type and date of these samples, and did not request the certification of a chartered accountant on them. Authority also appeals the clause (formality) and the clause (calculating the amount of Zakat paid for the year 1438H).

On Thursday, December 21, 2023 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision On the merits, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds

upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, 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 means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, with regard to the Authority's appeal regarding the clause (calculation of the amount of Zakat paid for the year 1438 AH) and where Article (70) of the Sharia Procedure Law issued by Royal Decree No. M/1 dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the case and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where this Circuit has established the Authority's request to leave the appeal as stated in the letter issued by it in the supplementary memorandum containing the following: "In the event that the Circuit overrides the formalities, the Authority would like to inform the Honorable Circuit that its appeal in relation to the above-



mentioned clause in particular, and the consequences of the Authority's appeal in relation to this clause, has been dismissed by the Circuit in accordance with the reasoning of the decision of the Adjudication Circuit." therefore, the Circuit must accept the abandonment of the litigation.

Whereas, with regard to the Authority's appeal regarding the clause (Cost of Seasonal Labor), the Authority's appeal lies in objecting to the decision made by the Adjudication Circuit regarding this clause; it claims that the Adjudication Circuit reviewed samples and not the entire clause, as it did not carry out a thorough examination, did not clarify what kind of samples or the date, and did not require a certified public accountant to certify them. Whereas paragraph (1) of Article (5) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, concerning the expenses that may be deducted, stipulates that "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the above, it is clear that the Authority abandoned its appeal regarding the years 1438H and 1439H for the Taxpayer's submission of supporting documents, and regarding the years 1436H and 1437H, the Authority maintains its appeal for failure to submit documents, and accordingly, with reference to the case file, it became clear that all the documents submitted by the Taxpayer regarding the above clause are for the years 1438H and 1439H only, and he did not submit any documents regarding the other years 1438 A.H. and 1439 A.H. only, and no document was submitted for the other years, which leads the Circuit to accept the Authority's appeal regarding the years 1436 A.H. and 1437 A.H. because the Taxpayer did not provide documentary proof of these expenses, cancel the decision of the Dispute Resolution Circuit regarding it, and accept the abandonment of the litigation regarding the appeal for the years 1438 A.H. and 1439 A.H.

With regard to the Taxpayer's appeal regarding the clause (Pilgrims' Gift Costs), the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause; he claims that this clause in the internal pilgrims' activity is neither a recreational nor optional clause, but an expense imposed on the internal pilgrims' companies according to the Ministry of Hajj's regulations. Whereas paragraphs (1/a) and (1/b) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 H, concerning the expenses that may be deducted, stipulate that "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- It must be an actual



expense supported by documentary evidence or other indications that enable the authority to verify its validity, even if related to previous years. B. They must be related to the activity and not related to personal expenses or other activities "Based on the above, it is clear that the Authority accepted the Taxpayer's objection for the years 1437H, 1438H, and 1439H only for submitting supporting documents, while for the year 1436H, the Authority maintains its rejection of the Taxpayer's objection for not submitting supporting invoices, and accordingly, with reference to the case file, it is clear that the Authority's reference to the failure to submit supporting invoices is correct the Circuit therefore concludes to reject the Taxpayer's appeal for the year 1436H for failure to provide documentary proof of these expenses, uphold the Circuit's decision thereon, and establish the end of the dispute for the years 1437H, 1438H, and 1439H for the Authority's acceptance of the Taxpayer's appeal.

Regarding the Authority's appeal on the remaining clauses in the case. Whereas, there is no fault on the part of the Circuit in adopting the reasons for the decision under appeal without adding to them, if it assesses that these reasons do not contain anything new, because in upholding them with what these reasons contain, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and because it is proven that the decision under appeal regarding the disputed clauses was in accordance with the sound reasons on which it was based and sufficient to carry its judgment, as the issuing Circuit scrutinized the dispute in it and reached the result in its operative part since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants commenting on it in light of the arguments raised before it, this Circuit concludes to reject the Authority's appeal and uphold the decision of the Adjudication Circuit with respect to the outcome of the remaining clauses in the case, bearing in mind its reasons for doing so. Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer / Company ..., Commercial Registration (...) , Unique Number (...) And the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the first circuit regarding violations and disputes of income tax in Riyadh number (IZD-2021-1943) issued in case number (Z-16565-2020) related to the zakat assessment for the years from 1436AH to 1439AH.

Secondly: On the Merits:



1- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit with regard to the (formalities) clause.

2- Accepting the abandonment of litigation regarding the Authority's appeal on the clause (calculating the amount of Zakat paid for the year 1438 AH).

3- Regarding the Authority's appeal on the (seasonal labor cost) clause:

A- Accepting the appeal and canceling the decision of the Adjudication Circuit for the years 1436 AH and 1437 AH.

B- Acceptance of abandonment of litigation in relation to appeals for the years 1438 AH and 1439 AH.

4- Regarding the Taxpayer's appeal on the clause (costs of pilgrims' gifts):

A- Rejecting the appeal and upholding the decision of the Adjudication Circuit regarding the year 1436 AH.

B. Proving the end of the dispute regarding the appeal for the years 1437H, 1438H, and 1439H.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2023-133566

Case No. ZI-133566-2022

Keywords:

Zakat - Adjustments to Net Profit - Foreign Procurement Difference - Accepting the Authority's Appeal - Rejecting the Taxpayer's Appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority objected to the decision of the First Circuit for adjudicating income tax violations and disputes in Jeddah governorate (IZJ-2022-839) related to the Zakat assessment for 2017 and 2018AD, where the Authority's appeal lies on the clause (foreign purchases difference) as it claims that by referring to the customs statement (Fasah), it turns out that foreign purchases amount to (111,614,598) riyals and (79,820,147) riyals, respectively, and upon reviewing the Zakat declaration, it was found that the Taxpayer did not submit a reconciliation between the value of foreign purchases in the Zakat declaration and the value of foreign purchases based on the customs declaration, and where the Taxpayer's appeal lies on the clause (difference in foreign purchases) that he submitted with his objection the customs account statement for factories, but it was not the value of foreign purchases was clarified, and the clause (salaries and wages), that the Authority compared the salaries and wages with the social insurance certificate, which contains only the basic salaries and housing allowance, while the Taxpayer provided an analytical statement of the total salaries and wages. Whereas the Appellate Committee proved that the dispute ended with (3,457,876) SAR for 2017 and (11,339,836) SAR for 2018AD, and the remaining difference of (11,161,460) SAR and (7,982,015) SAR, the Circuit concludes to reject the Taxpayer's appeal and accept the Authority's appeal as the Taxpayer did not submit anything in support of his objection, resulting in rejecting the Taxpayer's appeal, accepting the Authority's appeal, and modifying the decision of the Adjudication Circuit regarding the remaining difference with respect to the (procurement difference) clause.



Document:

- Article (70) of [The Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)
- Paragraph (3) of Article (5) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 06/14/2022, from ..., National ID No. (...) Was considered in his capacity as the statutory representative of the appellant company, the appeal filed on 06/15/2022 from the Zakat, Tax and Customs Authority (ZTCA), against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-839) issued in Case No. (ZI-38533-2021) related to the Zakat assessment for the years 2017 and 2018AD, in the case filed by the Taxpayer against the ZTCA, in which the decision of the Adjudication Circuit ruled as follows: The Taxpayer's claim is filed against the ZTCA:

First: dismissed the plaintiff's objection to the sales commission clause.

Second: deny the plaintiff's objection to the other expenses clause.

Third: modification of the Defendant's action on the EPF clause; in accordance with the reasoning of the decision.

Fourth: deny the plaintiff's objection to the salaries and wages clause.

Fifth: deny the plaintiff's objection to the unauthorized Revenue clause.

Sixth: reject the plaintiff's objection to the capital adjustment clause, reserves and accumulated losses.

Seventh: deny the plaintiff's objection to the allowance for doubtful debts.

Eighth: the plaintiff's objection to the loans and banks clause was rejected.

Ninth: the plaintiff's objection to the advance payment clause is rejected.

Tenth: dismissing the plaintiff's objection to the requirement of the relevant authorities.



Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies in the clause (sales commission for the years 2017 and 2018) that commissions are a deductible expense as stipulated in the regulation, and he points out that by comparing the Authority's with the company's sales, they represent a small percentage of (0.34%) and (0.18%) for the two years of the dispute respectively. It represents the amount owed to the lawyer as a result of collecting debts on the company's defaulted clients and represents a percentage of the amount collected based on the contract signed with the lawyer, which is a common practice in the field of debt collection. Regarding the clause (Other expenses for 2017 and 2018), the Taxpayer claims that other expenses are small amounts, and according to accounting concepts and norms, they are not required to be disclosed as separate clauses in the body of the financial statements. Regarding the clause (Salaries and wages for 2017 and 2018), the Taxpayer claims that the Authority compared the salaries and wages with the social insurance certificate, which contains only basic salaries and housing allowance, while the Taxpayer provided an analytical statement of the total salaries and wages. The Taxpayer also objects to the clause (Foreign Purchase Difference), the clause (Loans and Banks for 2017 and 2018), the clause (Unauthorized Revenues for 2018), the clause (Capital Adjustment, Reserve and Accumulated Losses for 2017 and 2018), the clause (Provision for Doubtful Debts for 2017 and 2018), the clause (Advance Payments for 2017 and 2018) and the clause (Required to Related Parties), therefore the Taxpayer requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above-mentioned reasons.

With regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal lies with regard to the clause (the difference of foreign purchases) that by referring to the customs declaration (Fasah) for the years 2017 and 2018AD, it was found that foreign purchases amounted to (111,614,598) riyals and (79,820,147) riyals for the two years, respectively, the Taxpayer did not provide a reconciliation between the value of foreign purchases in the Zakat declaration and the value of foreign purchases based on the customs declaration, as it turned out that foreign purchases amounted to zero according to the Zakat declaration, and the Taxpayer did not clarify where the foreign purchases were included in the declaration or provide a breakdown of other direct expenses in the declaration and clarify whether they were included in the declaration or not. We referred to the Revenue system and reviewed the breakdown of other direct expenses and found that they do not explicitly include the value of foreign purchases, and we note the



assumption of the Circuit of Taxation that the value of foreign purchases was not included in the Zakat declaration. For the year 2017). Taxpayer's declaration (0), purchases from customs data -Visasah- (111,614,598), what was added by the Authority according to the amended assessment (14,619,336), the 10% import difference added to the net profit (11,161,460), and the accepted difference (3,457,876). And for 2018: Taxpayer's declaration (0), purchases from customs data -Visasah- (79,820,147), what was added by the Authority according to the amended assessment (19,321,851), the import difference of 10% added to the net profit (7,982,015), the accepted difference (11,339,836). To summarize, the Authority accepts the Taxpayer's objection to the import difference in part by excluding the amounts of SAR 3,457,876 and SAR 11,339,836 for the years 2017 and 2018AD, respectively, and therefore the Authority upholds the validity and integrity of its procedure and requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above reasons.

On Monday, on: 03/10/2022 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision On the merits, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, 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 means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, as it concerns the parties' appeal regarding the clause (Foreign Procurement Teams), and where the appeal is an objection to the decision of the Adjudication Circuit regarding this clause; the Taxpayer claims that he submitted with his objection the customs account statement for a factory ... And a factory... For the years 2017 and 2018AD, but they were not reconciled with the submitted declaration,



noting that the value of foreign purchases has been clarified, and that these differences represent the currency difference because most of these purchases are made in euros and the currency management rate from the banks with which the company deals is different from the euro rate according to the conversion rate approved by the customs, in addition, there is an overlap between the accounting period and the customs and the company's books, and he states that the purchases were fully classified under other expenses in the submitted Zakat declaration, and the proof of this is that the net profit or loss is identical to the financial statements, which shows that the company has recorded the foreign purchases in another clause and not zero. While the Authority claims that by referring to the customs declaration (Fasah) for the years 2017 and 2018AD, it was found that the foreign purchases amounted to (111,614,598) riyals and (79,820,147) riyals, respectively, the Taxpayer did not provide a reconciliation between the value of foreign purchases in the Zakat declaration and the value of foreign purchases based on the customs declaration, as it was found that the foreign purchases amounted to zero according to the Zakat declaration, nor did he clarify where the foreign purchases were listed in the declaration or provide a breakdown of other direct expenses in the declaration and clarify whether they were included in the declaration or not. The Authority referred to the Revenue system and reviewed the breakdown of other direct expenses and found that it does not explicitly include the value of foreign purchases, therefore, the Authority partially abandons its appeal and accepts it

Article (70) of the Sharia Procedure Law promulgated by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, it is necessary to monitor the content of the claim and the answer before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the above, and where it has been proven to this Circuit that the dispute has ended by the defendant's acceptance of the plaintiff's action as stated in the letter issued by it in the supplementary memorandum submitted on 06/12/2023, containing the following: "The defendant's acceptance of the plaintiff's action "To summarize the above, the Authority accepts the Taxpayer's objection to the import difference in part by excluding the amounts of SAR 3,457,876



and SAR 11,339,836 for the years 2017 and 2018AD, respectively." This leads the Circuit to conclude that the dispute is closed with respect to the appeal of SAR 3,457,876 for 2017 and SAR 11,339,836 for 2018.

B) based on the above, the dispute between the parties to the lawsuit lies in the Authority's addition of SAR 14,619,336 and SAR 19,321,851 for the years 2017 and 2018AD, respectively, and where it is proven that the dispute ended with SAR 3,457,876 for 2017 and SAR 11,339,836 for 2018 as indicated in paragraph (a) above, and where the remaining difference in the amount of (11,161,460) and (7,982,015) SAR, and given that the Taxpayer did not submit anything in support of his objection, the Circuit concludes to reject the Taxpayer's appeal, accept the Authority's appeal, and modify the decision of the Adjudication Circuit regarding the remaining difference.

With regard to the Taxpayer's appeal regarding the clause (sales commission for the years 2017 and 2018), and where his appeal lies that commissions are deductible expenses as stipulated in the regulation, and indicates that comparing the Authority's with the company's sales represents a small percentage (0.34% and 0.18%) for the two years of the dispute, respectively, and with regard to the lawyer's commission ... It represents the amount owed to the lawyer as a result of collecting debts on the company's defaulted clients and is a percentage of the amount collected based on the contract signed with the lawyer.

Article (70) of the Sharia Procedure Law promulgated by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, it is necessary to monitor the content of the claim and the answer before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the above, and where it has been proven to this Circuit that the dispute has ended by the defendant's acceptance of the plaintiff's action as stated in the letter issued by it in the supplementary memorandum submitted on 06/12/2023, containing the following: "The defendant's acceptance of the plaintiff's action "Therefore, as it is found that the Taxpayer recorded the Authority expense for salesmen during the year 2017 and that it is supported by the employee contracts and the sales commission credit statement, the Authority accepts the Taxpayer's



objection with regard to it." This concludes the Circuit's decision to find that the dispute over the clause (commission for salesmen for 2017) has been resolved.

Based on the text of paragraph (1/A) of article (5) of the executive regulation for Zakat collection issued by Minister of Finance decision number (2082) dated 01/06/1438H related to the expenses that can be deducted which stated that: "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:"

A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the above, these expenses are considered deductible if they are proven to be an actual expense and supported by supporting documents, and since the dispute over this clause is a substantiated dispute, and upon reviewing the case file and the defenses and documents it contains, it was found that the Taxpayer submitted the audited financial statements and the audit balance for the Authority account extracted from the system, and upon reviewing the audit balance for the two years of the dispute, the Authority expense was found to be (1,735,692 riyals) for 2017 and (722,665 riyals) for 2018AD, and it was found to be identical to what was recorded in the financial statements, specifically the note related to selling and distribution expenses, and the Taxpayer also provided a sample of employee contracts and the financial manager's approvals for the payment of commissions to employees and provided a document for the sales commission calculation policy signed by the financial manager and several authorized persons, and for the Authority paid to the lawyer.... The Taxpayer submitted the contract between him and the lawyer, in addition to submitting invoices issued by the lawyer's office requesting the appellant company to pay amounts for collecting dues from the Taxpayer's clients, in addition to the Taxpayer's submission of extracts from the accounting system proving that he paid the amounts due to the lawyer, and the Taxpayer submitted the documents supporting the disputed expense, which concludes the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit except (salesmen commission for 2017), for which it was proven that the dispute has ended.

Regarding the Taxpayer's appeal regarding the clause (Other Expenses for 2017 and 2018), the Taxpayer's appeal is that other expenses are small amounts, and according to accounting concepts and norms, they are not required to be disclosed as separate clauses in the body of the financial statements. Paragraph (1/a) of Article (5) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, regarding the expenses that may be deducted, stipulates that "All ordinary



and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- It must be an actual expense supported by documentary evidence or other indications that enable the authority to verify its validity, even if it relates to previous years." Paragraph (3) of Article (5) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH states that: "Bad debts are considered an expense that may be deducted in accordance with the following rules: A- It must have been previously declared among the Taxpayer's Revenues in the year the Revenue is due. B- The bad debts must result from the activity being practiced. C- The Taxpayer must provide a certificate from their legal accountant indicating the write-off of these debts from the books by a decision from the authorized person. D- The debts should not be owed to parties related to the Taxpayer. The Taxpayer's obligation to declare income debts once they are declared." based on the above, it is clear that the dispute between the parties lies in the Authority's refusal to accept the deduction of other expenses because the Taxpayer failed to provide supporting documents for each expense and failed to submit the requirements for the deduction of bad debts, upon reviewing the case file and the defenses and documents it contains, it turns out that the clause of other expenses includes more than one expense, including (computer expenses, telephone, fax, internet, activities expenses, guest visa expenses, office supplies expenses, bad debt expenses, doubtful debt expenses, health expenses, travel expenses, insurance expenses.... Upon reviewing the submitted documents, it was found that the Taxpayer submitted a file with details of other expenses in Excel format, which appears to be extracted from the system, and by matching the amount of other expenses, it was found to be identical to what was mentioned in the financial statements, specifically the note related to selling and distribution expenses, therefore, the Taxpayer is entitled to deduct the disputed expenses except the bad debt expense of (148,768) SAR for the year 2018 only, as the Taxpayer did not provide evidence of compliance with Article 5, paragraph 3 of the Zakat Collection Executive Regulations mentioned above, which leads the Circuit to partially accept the Taxpayer's appeal and amend the decision of the Adjudication Circuit in this clause by accepting the deduction of other expenses in full for 2017 in the amount of (9,876,000) SAR and for 2018 the expenses will be deducted in the amount of (2,872,862) SAR only after excluding bad debts.

With respect to the Taxpayer's appeal regarding the clause of Salaries and Wages for the years 2017 and 2018, the appeal centers on the fact that the Authority had compared salaries and wages to the Social Insurance Certificate, which only reflects basic salaries and housing allowances, while the Taxpayer submitted an analytical statement of the total salaries and wages. Paragraph (1) of Article (5) of the Implementing Regulations for Zakat Collection, issued under Ministerial Resolution No. (2082) dated



01/06/1438H, provides that: “All ordinary and necessary expenses required for the business activity shall be deductible, whether paid or accrued, in determining the net result of activity, provided the following conditions are met: (a) The expense must be actual and supported by documentation or other evidence enabling the Authority to verify its accuracy, even if it pertains to previous years; (b) It must be related to the activity and not be personal or related to other activities; (c) It must not be of a capital nature; if a capital expense is listed, it shall be adjusted, capitalized under fixed assets, and depreciated according to statutory rates.” Accordingly, the Social Insurance Certificate constitutes a key piece of third-party evidence used to verify the fairness of salaries and wage expenses charged to accounts, unless the Taxpayer proves otherwise. Upon reviewing the case file and its contents, it was found that—contrary to the Authority and the Adjudication Committee’s claims—the analytical breakdown submitted by the Taxpayer at the objection stage matches what was submitted at the appeal stage. As for the differences, the Taxpayer submitted trial balances generated from the accounting system showing salaries of SAR (89,137,346) for 2017 and SAR (68,304,162) for 2018. These included expenses for leased labor, travel tickets, overtime, bonuses, housing supplies, phone expenses, and other benefits. The Taxpayer also provided Excel files showing sample months of disbursed employee salaries, including employee names, positions, and breakdowns by basic salary and agreed-upon allowances. A sample of contracts for outsourced labor was also submitted. However, upon reviewing the Zakat declarations, it was found that the Taxpayer only declared SAR (83,846,000) for 2017 and SAR (64,497,000) for 2018, despite documentation confirming that actual salaries and wages amounted to SAR (89,137,346) and SAR (68,304,162), respectively. The Taxpayer did not explain the reasons for not declaring the full amounts. Accordingly, the panel resolved to partially accept the Taxpayer’s appeal and amend the Adjudication Committee’s decision in this clause such that the deductible amount corresponds to what was declared in the Zakat return—SAR (83,846,000) for 2017 and SAR (64,497,000) for 2018—while rejecting the remainder.

Regarding the Taxpayer’s appeal on the remaining clauses in the case. Whereas there is no fault in the court’s adoption of the grounds for the contested decision without adding to them, since it deemed that those grounds were sufficient and did not require the addition of any new information, because in upholding it on the grounds set out in those reasons, it confirmed that it did not find in the objections raised against the decision anything that warranted a response beyond what was contained in those reasons. That being the case, and since it has been established that the decision under appeal in the dispute concerning the contested clauses is consistent with the valid reasons on which it is based and sufficient to support its ruling, as the court that issued it examined the substance of the dispute and reached the conclusion set out in its



ruling. This court did not find anything that would warrant correction or comment in light of the arguments presented before it. This court therefore rejects the appeal and upholds the decision of the court of first instance in its entirety with regard to the remaining clauses of the claim, based on the reasons given. Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer / Company ..., Commercial Registration (...), Unique Number (...) And the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the first circuit for adjudicating violations and disputes of income tax in Riyadh with number (IZJ-2022-839) issued in case number (ZI-38533-2021) related to the zakat assessment for the years 2017AD and 2018AD.

Secondly: On the Merits:

1- Regarding the appeal of the two parties on the clause (external procurement teams):

A-Recognizing the end of the dispute regarding the appeal of (3,457,876) SAR for 2017 and (11,339,836) SAR for 2018.

B- rejecting the Taxpayer's appeal, accepting the Authority's appeal, and modifying the decision of the Adjudication Circuit regarding the remaining difference.

2- Regarding the Taxpayer's appeal on the clause (sales commission for the years 2017 and 2018):

A-Confirmation of the end of the dispute regarding the appeal on the clause (salesmen's commission for 2017).

B- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit.

3- Accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit regarding the clause (other expenses for 2017 and 2018).

4- Accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit regarding the clause (salaries and wages for the years 2017 and 2018).

5- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (loans and banks for the years 2017 and 2018).



6- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (unauthorized Revenues for 2018).

7- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (capital adjustment, reserves and accumulated losses for 2017 and 2018).

8- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the provision for doubtful debts for the years 2017AD and 2018AD.

9- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (advance payments for 2017 and 2018).

10- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (required for related parties).

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 Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2023-142803

Case No. Z-142803-2022

Keywords:

Zakat - Adjustments to net profit - Local purchases - Acceptance of Taxpayer's appeal

Summary:

The Taxpayer's appeal against the decision of the Second Circuit for the adjudication of income tax violations and disputes in Riyadh (ISR-2022-1093), where the Taxpayer's appeal lies on the clause (local purchases) because he submitted his Zakat return based on the draft consolidated financial statements for the year 2018 out of his desire to submit the Zakat return and pay the Zakat due thereunder within the specified statutory dates before completing the audit of the financial statements from the auditor, and later amended his Zakat return accordingly and disclosed the amended amount of local purchases for the year 2018 and stated that the Authority compared the local purchases submitted by the Taxpayer and the local purchases based on the draft declaration. The Appellate Committee found that the Taxpayer provided the necessary reconciliation, which proves that the total profit did not change its result, which confirms that it was a reclassification between clauses that did not result in differences in the total profit. This means accepting the Taxpayer's appeal.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Article (70) of [The Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)
- Article (4) of [The executive regulations for zakat collection issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



- Article (21) of [The executive regulations for zakat collection issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:



The appeal filed on 08/25/2022 from (...), and the appeal filed on 08/30/2022 from the Zakat, Tax and Customs Authority, were considered on the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-1093) issued in Case No. (Z-47827-2021) related to the 2018 Zakat assessment, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: accepting the lawsuit filed by the plaintiff (...), Commercial Registration No. (...), against the defendant/Zakat, Tax and Customs Authority procedurally.

Second: On the Merits:

The Defendant's action with respect to the clause "Addition of Incremental Carryover Dividends" is annulled, as stated in the reasons.

Dismiss the claim with respect to the remaining clauses.

This decision was not accepted by both parties both parties filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, the Taxpayer's appeal lies in relation to the clause (Related Parties) that the Authority relied on the separate accounting records of each subsidiary separately in assessing them to the related parties clause, as the companies whose credit balances the Authority claimed to have turned over are subsidiaries and consolidated in the financial statements. He also stated that Note 1 of the consolidated financial statements explains that these credit balances are canceled as a result of the consolidation of the financial statements, and that the amount linked exceeds the amounts shown in the consolidated financial statements. With regard to the clause (local purchases), the Taxpayer claims that he submitted his Zakat declaration based on the draft consolidated financial statements for the year 2018 in order to submit the Zakat declaration and pay the Zakat due under it within the specified statutory dates before completing the audit of the financial statements from the auditor in order to ensure compliance with the statutory period, then he subsequently amended his Zakat



declaration based on which he disclosed the adjusted amount for local purchases for the year 2018AD, he stated that the Authority compared the local purchases submitted by the Taxpayer with the local purchases from the draft declaration, which is incorrect, as the Authority must compare the statement of purchases submitted by the Taxpayer with the local purchases from the amended declaration, and the Taxpayer provided a reconciliation showing the detailed analysis of the cost of sales clause within the income statement and its value within the Zakat declaration. The Taxpayer also objects to the clause "Loans and the like". Therefore, the Taxpayer requests that the decision of the Adjudication Circuit on the clauses under appeal be overturned for the above-mentioned reasons.

With regard to the Authority's appeal against the decision of the Adjudication Circuit, it submitted an appeal list, which was reviewed by the Circuit, stating that the Authority requests the acceptance of its appeal and the reversal of the Adjudication Circuit's decision with regard to the clause (adding the increased carry-over profits).

On Thursday, December 21, 2023 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision On the merits, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, 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 means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

The Taxpayer's appeal regarding the clause (Related Parties), and where his appeal lies in the fact that the Authority relied on the separate accounting records of each subsidiary separately in assessing them to the related parties clause, as the companies whose credits the Authority claimed to have turned over are



subsidiaries and consolidated in the financial statements, and Note 1 of the consolidated financial statements explains that these credits are canceled as a result of the consolidation of the financial statements, and also stated that the amount linked exceeds the amounts shown in the consolidated financial statements. The first paragraph (5) of Article (4) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH states that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" .5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade and a year has passed on it." based on the above, the receivable due to the related parties is considered a source of financing and is treated as equity in terms of Zakat treatment. After reviewing, it was found that the return is unified and the financial statements are unified, which results in the cancellation of these credits as a result of the unification of the returns and financial statements, and therefore the impact added by the Authority in the amount of SAR 315,059,778 must be removed, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit in this clause.

With regard to the Taxpayer's appeal regarding the clause (local purchases), the Taxpayer's appeal is that he submitted his Zakat declaration based on the draft consolidated financial statements for the year 2018 in order to submit the Zakat declaration and pay the Zakat due under it within the specified statutory dates before completing the audit of the financial statements by the auditor, and then he subsequently amended his Zakat declaration, according to which he disclosed the amended amount for local purchases for the year 2018AD, he stated that the Authority compared the local purchases submitted by the Taxpayer with the local purchases from the draft declaration, which is incorrect, as the Authority must compare the procurement statement submitted by the Taxpayer with the local purchases from the amended declaration. Whereas paragraph (1/a) of Article (5) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 H, concerning the expenses that may be deducted, stipulates that "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:"

a. It must be an actual expense supported by supporting documents or other evidence that enables the Authority to ascertain its authenticity, even if it relates to previous years." Article 6, paragraph (2) of the Law also stipulates that the expenses that may not be deducted are as follows: "Expenses for which the Taxpayer is unable to substantiate the expenditure by supporting documents or other evidence", as stipulated in



Article 20(3), which reads as follows: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, and where the Taxpayer stated that he submitted a detailed analysis showing the value of local and foreign purchases for the year 2018AD, and prepared a sample of those purchases, which confirms that all of them are local purchases from suppliers practicing their business activity inside the Kingdom of Saudi Arabia, in addition to a certificate from a certified public accountant. Accordingly, since the Taxpayer provided the necessary reconciliation that proves that the total profit did not change as a result of the reconciliation, which confirms that it is a reclassification between clauses that did not result in differences in the total profit, the Authority's argument that the total profit did not change and that the statements submitted during the objection stage are materially different from what he submitted during the assessment stage does not affect this, as the Taxpayer submitted documents that support his objection, including a certified public accountant's certificate, an analytical statement of local and foreign purchases, samples supporting the purchases, and the certified public accountant's certificate confirming the validity of the Taxpayer's defenses to reconcile the figures with the financial statements and the Zakat declaration, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit in this clause.

Whereas, with regard to the Authority's appeal regarding the clause "Addition of Carryover Profits (a) amounting to SR 12,996,000", and where Article (70) of the Sharia Procedure Law issued by Royal Decree No. M/1 dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the lawsuit is set, the content of the lawsuit and the answer must be monitored before the agreement is recorded, taking into account that the origin of the lawsuit is within the jurisdiction of the circuit, even if the content of the agreement is within the jurisdiction of another court or circuit, provided that the merits of the lawsuit or some of it is among those agreed upon." Based on the above, and where it was proven to this circuit the Authority's request to leave the appeal as stated in the letter issued by it in the reply note (1) submitted on 17/12/2023, containing the following: "In



light of the above, the Authority clarifies that it has no objection to deducting the amount of SAR 12,996,000 from the balance of retained earnings and in return deducting real estate investments worth SAR 495,520,000, as stated in the reasons for the preliminary decision," which leads the Circuit to agree to leave the dispute on the amount of SAR 12,996,000.

Regarding the Taxpayer's and the Authority's appeal on the remaining clauses in the case. Whereas, there is no fault on the part of the Circuit in adopting the reasons for the decision under appeal without adding to them, if it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with the content of those reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in those reasons, and since it is proven that the decision under appeal regarding the dispute regarding the clauses under appeal was consistent with the valid reasons on which it was based and sufficient to carry its judgment, since the issuing Circuit scrutinized the content of the dispute in it and reached the result in its operative part since the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and since this Circuit did not observe anything that warrants censure or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal, reject the Authority's appeal, and uphold the decision of the Adjudication Circuit with respect to the rest of the clauses at issue in the case, bearing in mind its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: accepting the appeal procedurally from the Taxpayer (...), commercial register (...), Unique number (...) And the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-1093) issued in Case No. (Z-47827-2021) related to the 2018 Zakat assessment.

Secondly: On the Merits:

- 1- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (loans and the like).
- 2- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the "Related Parties" clause.



- 3- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the (local procurement) clause.
- 4- Regarding the Authority's appeal on the clause (adding profits carried forward with the increase):
 - A- Accepting the abandonment of litigation regarding the appeal for SAR 12,996,000.
 - B- Rejecting the appeal and upholding the decision of the Adjudication Circuit regarding the remaining amount.

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 Income Tax Violations and Disputes
In Riyadh

Decision No. Z -2023-193996

Case No. Z-193996-2023

Keywords:

Zakat - Adjustments to Net Profit - Disallowing Deduction of Hospitality Expenses - Accepting the Authority's Appeal

Summary:

The Zakat, Tax and Customs Authority's appeal against the decision of the First Circuit for the adjudication of income tax violations and disputes in Riyadh (IFR-2023- 98526) related to the Zakat assessment age for 2019 and 2020, where the Authority's appeal lies on the clause (short-term loans) in that it claims that these loans are in essence revolving and continuous (long-term) loans that do not interrupt the Zakat cycle and are therefore considered a component of the vessel, and the clause (disallowing the deduction of hospitality expenses) as it claims that the Taxpayer did not provide supporting documents or invoices explaining the nature of the expenses. Whereas the Appellate Committee found that the Taxpayer did not clarify the nature of the remaining expense, tip money, or any related documents. As the Authority has already accepted these amounts and the samples are related to these amounts, as for the remaining amounts in dispute, it is clear that the Taxpayer did not provide any details about them. This means; accepting the Authority's appeal regarding the clause (not allowing the deduction of hospitality expenses) and accepting the appeal regarding the clause (short-term loans) and rejecting some of them.

Document:

- Paragraph (3) of Article (4) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)
- Article (5) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)



- Article (18) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)
- Paragraph (1) of Article (8) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)
- Paragraph (1,2) of Article (9) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)

Facts:



The appeal was heard on: 2023/04/30 AD, from the Zakat, Tax and Customs Authority, on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2023-98526) issued in Case No. (Z-98526-2022) regarding the Zakat assessment for the years 2019 and 2020, in the lawsuit filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: amending the action of the defendant/Zakat, Tax and Customs Authority against the plaintiff/... (unique number...) Regarding the clause of credits added to the Zakat base (advance payments) that are the subject of the lawsuit, as explained in the reasons.

Secondly: plaintiff's objection is denied (unique number...) On the decision of the defendant/Zakat, Tax and Customs Authority not to allow user deductions from the allowance for impairment losses on the trade receivables at issue.

Third: to cancel the other decisions of the defendant/Zakat, Tax and Customs Authority against the plaintiff/... (unique number...) Related to the assessment in question.

This decision was not acceptable to the appellant (Zakat, Tax and Customs Authority), so it filed a list of appeals, which was reviewed by the Circuit, as the Authority's appeal lies on the clause (Bank of ... For the year 2020 AD), the Authority reports that it has reviewed the detailed movement, which shows that the loans are repaid and obtained again on close dates, and accordingly, these loans are in essence revolving and continuous (long-term) loans, and during the same days of repayment or on close days, new loans were obtained, and the detailed movement showed that the addition and repayment continued during the entire year, and therefore these loans are considered revolving and do not interrupt the Zakat solution and are



therefore considered components of the Zakat base therefore, these loans are considered revolving and do not interrupt the zakat cycle and are therefore considered a component of the zakat base, and the Authority considers adding them to the zakat base with the balance of the first or last period, whichever is less, based on Article (4) paragraph (3/b) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 7/7/1440 H, which stipulates that: (The Zakat base for a Taxpayer who maintains commercial books consists of all his assets subject to the collection of Zakat, including the following: "The debts owed by the Taxpayer classified as long-term and similar components of the zakat base, such as: Government financing, commercial financing, creditors, promissory notes, overdraft accounts, and loans from owners or partners (including their current accounts), provided that the following is considered: B- The zakat year for debts does not cease by renewing or rescheduling them with the same creditor or by replacing these debts with other debts or sources of financing that finance what these debts were financing. Regarding the Authority's appeal regarding the Bank of ... For the years 2019 and 2020), the Authority reviewed the submitted movement, which shows that the movement of the loan is total and does not show the details of repayment and addition, and because the detailed movement of the loan was not submitted within the certificate of the legal accountant, which makes it impossible to track the movement of the loan and know whether it is a revolving loan or not, and according to the movement previously submitted to the Authority according to the movement previously submitted to the Authority, the loan is considered a long-term loan that is added to the Zakat base, and the Authority considers adding it to the Zakat base with the balance of the first or last period, whichever is less, based on Article (4) paragraph (3/b) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated 7/7/1440 AH, the text of which is mentioned above. With regard to the Authority's appeal regarding the clause (disallowing the deduction of hospitality expenses for the years 2019 and 2020), the Authority refunded the entertainment and gratuity expenses as non-deductible expenses because they are not related to the activity, and when studying the objection and during the hearing held on 24/01/2022, it was

In his response to the data request, the Taxpayer provided a sample of documents consisting of invoices related to hospitality expenses, confirming the nature of the expense and that it consists of hospitality and entertainment expenses in light of the above, it is clear that entertainment and gratuity expenses are considered non-deductible expenses as they are not related to the activity in accordance with the provisions of Article (9) paragraph (1) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2216) dated 7/7/1440 AH, which stipulates that "Except as provided in Article (8) of the Regulations, the following expenses may not be deducted: 1- Expenses and costs not related to the



Taxpayer's activity." The Circuit issuing the decision under appeal canceled the Authority's decision, reasoning that the Defendant provided the supporting documents, and accordingly, the Authority reviewed the case papers and reported the following: regarding entertainment expenses: whereas the Taxpayer reported the existence of hospitality expenses within entertainment expenses in the amount of (431,513) riyals and (270,521) riyals within the amount of (1,895,244) riyals for the years 2019 and 2020, respectively, for which he provided sample invoices, and therefore the Authority partially accepts the clause regarding these amounts only, since they are expenses of water, tea and coffee used in the company's hospitality, which the Authority believes are eligible for deduction as they are ordinary and necessary expenses for employees working in the company, based on paragraph (1) of Article (8) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2216) for 1440 AH, as for the amount of (1,624,723) riyals, the Defendant did not provide supporting documents or invoices explaining the nature of these expenses in order to verify the validity and legality of accepting them. Regarding the clause of gratuity expenses: Authority confirms the correctness of its action in not accepting the deduction of SAR (2,081,069 and SAR 243,449) for the years 2019 and 2020, as the Defendant did not provide supporting documents or invoices explaining the nature of these expenses in order to verify the validity and regularity of their acceptance. Accordingly, the Authority maintains the validity and integrity of its procedure and requests that its appeal be accepted and that the decision of the Adjudication Circuit on the clauses under appeal be reversed.

On Tuesday, 05/03/2024, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconferencing in accordance with the procedures for remote videoconferencing; based on the provisions of Clause No. (2) of Article Fifteen of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: April 21, 1441 A.H.; and by calling on the opponents, I attended ... (National ID No. ...), as the representative of the Appellant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) And the date 19/03/1445 AH, and I attended (...) National ID No. (...), as agent for the Defendant under Agency No. (...), the Circuit decided to close the hearing and deliberations.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Authority, 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 formally admissible



because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the subject of the Authority's appeal regarding the clause (short-term loans), the Authority's appeal lies in the appeal against the decision of the Adjudication Circuit regarding this clause, as it claims that these loans are in essence revolving and continuous (long-term) loans that do not break the Zakat conversion period and are therefore considered a component of the Zakat wafa. Based on paragraph (3) of Article (4) of the executive regulation for collecting zakat issued by the ministerial decision number (2216) dated 07/07/1440 AH, which states that: "The zakat base for the Taxpayer who keeps commercial books consists of all his assets subject to zakat collection, including the following: "The debts owed by the Taxpayer classified as long-term and similar components of the zakat base, such as: Government financing, commercial financing, creditors, promissory notes, overdraft accounts, and loans from owners or partners (including their current accounts), provided that the following is considered: A- If the debts owed by the Taxpayer or other sources of funding have a duration of three hundred and fifty-four (354) days or more overlapping during the zakat year and the following year, they are added to the zakat base according to the number of days for each zakat year. B- The zakat year for debts does not cease by renewing or rescheduling them with the same creditor or by replacing these debts with other debts or sources of financing that finance what these debts were financing. C. The addition of any of the clauses mentioned in this paragraph shall not exceed the total amount deducted from the base in accordance with Article (5) of the Regulations." based on Article (18) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated 07/07/1440 AH, which stipulates that "Without prejudice to the provisions of Article (10) of the Regulations, every Taxpayer shall maintain, within the Kingdom and in the Arabic language, the commercial books necessary to accurately determine the amount of Zakat and keep the documents that prove their authenticity and the data and explanations that support them. The burden of proving the authenticity of the clauses and any other data contained in the declaration shall be on the Taxpayer, and if he is unable to prove the authenticity of what is contained in his declaration, the Authority may not authorize the clause whose authenticity is not proved by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." based on the foregoing, and with respect to the Authority's appeal regarding Bank ... Upon reviewing the legal accountant's report in order to compare the payment and collection movement, it is not possible to trace the movements as the document changed the amounts and dates, nor can any other analysis be relied upon as the Taxpayer admitted that the other reports on which the Authority relied in its memorandum are



inaccurate and that the accurate document is the legal accountant's report, which concludes the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit regarding (Bank ... For the year 2020).

Regarding the Authority's appeal regarding (the Bank of ... For the years 2019 and 2020), and since the Authority argues that the Taxpayer did not submit the detailed movement, and since the chartered accountant's report did not contain it, it was subjected and by reviewing the chartered accountant's report, it appears that it did not contain the movement, and therefore, and since the Taxpayer did not provide a detailed analysis of the movement and payment, and the Taxpayer's defense that the banking system... The so-called revolving renewal loans are not accepted at all, as paying off the loan and obtaining another loan from the same bank does not make the hawl interrupted on the bank, so the movement is to ascertain whether the collection was on the same date as the payment, which makes the loan uninterrupted and subject to zakat at the beginning or the end of the period, whichever is less, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit regarding (Bank of ... For 2019 and 2020).

With regard to the Authority's appeal regarding the clause (disallowing the deduction of hospitality expenses for the years 2019 and 2020), the Authority's appeal is to appeal the decision of the Adjudication Circuit regarding this clause, as it claims that the Taxpayer did not provide supporting documents or invoices explaining the nature of the expenses. Based on paragraph (1) of Article (8) of the executive regulation for collecting zakat issued by the ministerial decision number (2216) dated 07/07/1440 AH, which states that: "The following expenses may be deducted to determine the net result of the activity: 1- Ordinary and necessary expenses necessary for the activity, provided that the following controls are met: a. The alimony must be actual and supported by documents and evidence accepted by the Authority and verifiable, even if it relates to previous years. B. It must be related to the Taxpayer's activity, and not related to personal expenses or other activities not related to the Taxpayer. C. Not be capitalist in nature. If an expense of a capital nature is included in expenses, it is adjusted to the result of the activity, included in the fixed assets and amortized in the depreciation of the asset." Based on paragraph (1) , (2) of Article (9) of the executive regulation for collecting zakat issued by the ministerial decision number (2216) dated 07/07/1440 AH, which states that: "Except as provided in Article (8) of the Regulations, the following expenses may not be deducted: 1- Expenses and costs not related to the Taxpayer's activity. 2- Expenses that the Taxpayer is unable to prove with supporting documents or other evidence accepted by the Authority. Based on the



above, and after reviewing the case file and the defenses and documents it contains, it appears that the Authority's appeal is limited to the hospitality expenses clause for 2020 in the amount of (1,624,723) riyals, and the gratuities clause for 2019 in the amount of (2,081,069) riyals and (243,449) riyals, the Authority argues that the Taxpayer did not provide supporting documents or invoices explaining the nature of the expenses, and by reviewing the documents, it appears that the Taxpayer indicated in his reply note that the amount of (270,521) riyals is tea and water expenses for employees, and the Taxpayer did not clarify the nature of the remaining expense of (1,625,723) riyals or the expense of tips or any related documents. As the Authority has already accepted these amounts and the samples are related to these amounts, as for the remaining amounts in dispute, it is clear that the Taxpayer did not provide any details, which leads the Circuit to accept the Authority's appeal and cancel the decision of the adjudication on this clause.

With regard to the Authority's appeal regarding the remaining clauses at issue in the case, the Circuit is not faulted for adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and since this is the case and it is proven that the decision under appeal regarding the disputed clauses at issue was in accordance with the valid reasons on which it was based and sufficient to carry its judgment as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Authority's appeal and uphold the decision of the Adjudication Circuit with respect to the outcome it reached on the clauses at issue in the case, bearing in mind its reasons.

Decision:

First: Acceptance of the appeal procedurally from its submitter, the Zakat, Tax and Customs Authority against the decision of the third division regarding violations and disputes of income tax in Riyadh with number (IFR-2023-98526) issued in case number (Z-98526-2022) related to the zakat assessment for the years 2019 and 2020.

Secondly: On the Merits:

1- Regarding the Authority's appeal on the clause (short-term loans):



A- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit with regard to the clause (Bank of ... For 2019).

B. Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit with regard to the clause (Bank of ... For 2020).

C. Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit with regard to (Bank of ...). For 2019 and 2020).

D. Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit with regard to the clause (rest of the loans).

2- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (advance payments for 2019 and 2020).

3- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (not allowing the deduction of hospitality expenses for 2019 and 2020).

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 Income Tax Violations and Disputes
In Riyadh

Decision No. Z-192726-2023

Case No. Z-192726-2023

Keywords:

Zakat - Adjustments to net profit - Fines and penalties - Acceptance of the Authority's appeal

Summary:

The Zakat, Tax and Customs Authority (ZTCA) appeals the decision of the Second Circuit for the Adjudication of Income Tax Violations and Disputes in Riyadh (ISR-2023- 133881) related to the 2019 Zakat assessment age, where the Authority's appeal on the clause (Fines and penalties) lies in objecting to the decision of the Circuit, claiming that they are not related to the activity and therefore cannot be deducted, and where the Appellate Committee proved that the Authority's appeal included the detailed movement of the fines and penalties expense, and that the Taxpayer did not provide proof that these fines are not the result of violating the laws and regulations in force in the Kingdom and are the result of not meeting the contractual conditions. This means accepting the Authority's appeal with regard to the Fines and Penalties clause.

Document:

- Paragraph (1) of Article (8) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)
- Paragraph (6) of Article (11) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)
- Paragraph (3) of Article (9) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)



Facts:



The appeal filed on 04/25/2023 by the Zakat, Tax and Customs Authority (ZTCA) against the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2023-133881) issued in Case No. (Z-133881-2022) related to the 2019 Zakat assessment, was considered in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: accepting the lawsuit filed by the plaintiff / Company ..., Commercial Registration No. (...), against the defendant / Zakat, Tax and Customs Authority, procedurally.

Secondly: On the Merits:

1- Annul the Defendant's action with respect to the Fines and Penalties clause for 2019, as stated in the reasons.

2- Dismissal of the claim with respect to the 2019 trade creditors clause.

3- Dismissal of the claim in relation to the clause of retained insurance to secure business for 2019.

4- Revoke the Defendant's action with respect to an additional funding line clause for 2019, as stated in the reasons.

5- Dismissal of the case with respect to the 2019 advance Revenue clause.

6- Reject the plaintiff's objection with respect to the 2019 loss carryforward clause.

As this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it filed a list of appeals, which included the following:

In objecting to the decision of the Appealed Decision, the Authority claims that with regard to the clause (Fines and Penalties for 2019), the Authority explains that the Circuit issuing the Appealed Decision annulled the Authority's decision on the grounds that the Authority did not submit its response on the merits and that it made a response that did not meet the reality of the case. The Authority responds that the Circuit should have specifically asked the Authority representative about its view on that clause in accordance with the general rules in court proceedings and Article (60) of the Sharia Procedure Law: "If the defendant refuses to answer at all, or responds with an answer that is not relevant to the case, the judge shall repeat the request



for the correct answer three times in the same session, and if he insists on this, he shall be considered a nakl after warning him, and the case shall proceed as per the legal requirements", which makes it clear to your circuit that the Circuit's procedures are deficient, and accordingly, the Authority requests that this clause be returned to the Circuit that issued the decision to study the point of view of the Authority in detail in the event that your esteemed circuit wishes to consider the merits of the clause, the Authority explains that it amended that clause as it represents added tax fines and traffic fines, after inquiring from the Taxpayer and responding on 11/18/2021, and during the objection phase, the Authority reviewed the financial statements and data submitted, as the Taxpayer provided a detailed movement of the fines clause for a total amount of (401,523) riyals, where it was found that a total of (312,361,41) riyals represent traffic fines and VAT fines that cannot be deducted as they are not related to the activity based on Article 8 paragraph (1) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH, which stipulates (The following expenses may be deducted to determine the net result of the activity: of which: b. They must be related to the Taxpayer's activity, and not related to personal expenses or other activities that do not belong to the Taxpayer.) Based on paragraph (3) of Article 9 of the same regulation, which stipulates the expenses that may not be deducted, including "3. Zakat or tax due or paid", and the Authority maintains the validity of its procedure, and based on the above, the decision of the Circuit in this case under appeal is legally incorrect and should be annulled without any doubt, and therefore the Authority requests the reversal of the decision of the Circuit for the above reasons.

On Thursday, on: 27/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, through video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated:08/04/1445AH 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 reviewing the case documents and the appeal list submitted by the Authority, 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 means that the appeal request is accepted



procedurally, as it was submitted by a person with standing, and within the statutory period prescribed for its conduct.

On the merits, as it relates to the Authority's appeal regarding the clause (Fines and Penalties for 2019), and where the Authority's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as it claims that it is not related to the activity and therefore cannot be resolved. Based on Article Eight Paragraph (1) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated 07/07/1440 AH, which stipulates: (The following expenses may be deducted to determine the net result of the activity: of which: b. It must be related to the Taxpayer's activity, and not related to personal expenses or other activities not related to the Taxpayer), and based on paragraph (6) of Article (11) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2216) dated 07/07/1440 A.H: "Bad debts, subject to the following conditions: a. It must have been previously recognized as Revenue in the year the Revenue is due. B. The debts must be the result of practicing the activity", and based on paragraph (3) of Article 9 of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH, which stipulates the expenses that may not be deducted, including "3- Zakat or tax due or paid", and based on Article (18) of the Zakat Collection Executive Regulation issued by the Minister of Finance Decision No. (2216) dated 07/07/1440 AH: "Without prejudice to the provisions of Article (10) of the Regulation, every Taxpayer shall maintain - within the Kingdom and in Arabic - the commercial books necessary to accurately determine the amount of Zakat, as well as the documents that prove their authenticity and the data and explanations that support them. The burden of proving the authenticity of the clauses and any other data in the declaration is on the Taxpayer, and if he is unable to prove the authenticity of the clauses in his declaration, the Authority may not approve the clause that is not proven by the Taxpayer or make a discretionary assessment according to the view of the Authority in light of the circumstances and facts related to the case and the information available to it." based on the above, it appears that the Authority's appeal included the detailed movement of fines and penalties expenses totaling (401,523) riyals for the year 2019, which was rejected by the Authority in the amount of (312,361) riyals for the year 2019, as it relates to (VAT fines and traffic fines),(361) riyals for the year 2019 as they relate to both (VAT fines and traffic fines), and since the Taxpayer did not provide proof that these fines are not the result of violating the laws and regulations in force in the Kingdom and that they are due to the failure to fulfill the contractual conditions and given the Taxpayer's failure to provide documents supporting his point of view (copies of invoices/contracts, bank payment certificates and financial statements) to verify whether or not the expense can be deducted in accordance



with Zakat laws and regulations, the burden of proof lies on the Taxpayer, which leads the Circuit to accept the Authority's appeal and annul the decision of the Adjudication Circuit regarding this clause.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from its submitter, the Zakat, Tax and Customs Authority against the decision of the third division regarding violations and disputes of income tax in Riyadh with number (ISR-2023-133881) issued in case number (Z-133881-2022) related to the Zakat assessment for the year 2019AD.

Secondly: On the Merits:

Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (fines and penalties for 2019).

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.



Zakat Assessment



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024- 202069

Case No. Z-2023-202069

Keywords:

Zakat - Zakat Assessment - Zakat Collection Regulations - Taxpayer's Appeal Rejected

Summary:

The Taxpayer's appeal against the decision of the First Circuit for the adjudication of income tax violations and disputes in Jeddah Governorate No. (IZJ-2023-144288), where his appeal lies on the clause (the company's share in the losses of ... Company (The amount represents actual losses incurred by the company as a result of liquidating the investment, obtaining licenses and incurring the value of Dubai rent, and the clause (Application of Zakat Collection Regulation) to object to the application of the Zakat Regulation of 1438AH , as it stated that it is effective from the date of its entry into force. The Appellate Committee found that the Ministerial Decision states that the Regulation supersedes all previous circulars, decisions, and instructions, which makes the Circuit decide that the Authority's action to apply the Regulation to the Zakat assessment at issue in the case is valid. This means rejecting the Taxpayer's appeal for paragraph (8) and accepting paragraph (2).

Document:

- Paragraph (5) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal filed on 2023/06/19 AD, by (...), National ID No. (...), as an agent under agency No. (...), and under law license No. (...), against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2023-144288) issued in Case No. (144288-2022-Z) related to the Zakat assessment for 2016, in the lawsuit filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: deny the plaintiff's objection to the import difference profit clause.

Second: the plaintiff's objection to the company's share of losses clause was rejected... (subsidiary).

Third: rejecting the plaintiff's objection to the board members' remuneration clause.

Fourth: deny the plaintiff's objection to the profits carryover clause.

Fifth: deny the plaintiff's objection to the other payables clause.

Sixth: the plaintiff's objection to the line clause Other Governmental Organization - Other Suppliers - Due to Related Parties - Accrued Expenses - Payments from Customers was rejected.

Seventh: dismissing the plaintiff's objection to the clause on investments in a ...

This decision was not acceptable to the Taxpayer (Company ...), so he filed a list of appeals, which was reviewed by the Circuit, where the Taxpayer's appeal is based on the clause "the company's share of the losses of ... Company (The Taxpayer explains that this amount represents actual losses incurred by the company as a result of liquidating the investment, obtaining licenses, and incurring the value of Dubai rent. He requests that his appeal be accepted and the decision of the Adjudication Circuit be reversed.

On Tuesday, 04/06/2024, 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 conferencing in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 A.H.; Calling on the opponents, Mr. ... National ID No. (...), as agent for the appellant by virtue of agency No. (...), and attended ... (National ID No. ...), in her capacity as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of



the Zakat, Tax and Customs Authority for Legal Affairs No. (...) On March 19, 1445 A.H., the representative of the appellant was asked what it wished to add, and it stated that it adheres to what was previously submitted in this case. When this was brought to the attention of the appellant's agent, he replied that he was adhering to what had already been submitted in this case. When the parties were asked what they wished to add, they replied in the negative, and since the case is ripe for adjudication in its current state, the Circuit decides to close the arguments and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, 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 formally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, with regard to the Taxpayer's appeal on the clause (the company's share of the losses of ... (As the Taxpayer's appeal lies in the fact that this amount represents actual losses incurred by the company as a result of liquidating the investment, obtaining licenses and bearing the value of Dubai rent, according to the above, it is clear to the Circuit that the dispute lies in the Authority's failure to accept the amount of (43,531,099) riyals as bad debts owed to a related party, the dispute lies in the Authority's failure to accept the amount of (43,531,099) riyals as a bad debt owed by a related party, while the Taxpayer argues that this amount represents actual losses incurred by the company as a result of the liquidation of the subsidiary company, and with reference to the case file and its contents and by reviewing the financial statements of the appellant company and the subsidiary company, it was found that the qualification of the Authority and the Circuit of adjudication that the amount is a written-off debt on a related party is incorrect, as according to the financial statements of the subsidiary company, it was shown in Note (11) that the company "The Appellant incurred losses amounting to USD (11,728,294) on behalf of the Company, and upon reviewing Note (10) in the Appellant's financial statements, it was found that it included the following: "During the year, the Company incurred losses related to its investment in ... Company the amount of SAR 43,531,099 was recorded in the financial statements as losses incurred by the company, and it is clear that the amount in dispute is actual losses incurred by the company as a result of the liquidation of the subsidiary, and this is not affected by the Authority's claim that it is classified as bad debts, as mentioned above, which concludes



the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit with regard to this clause.

Regarding the Taxpayer's appeal on the clause (other payables): b- Regarding (4,850,452 riyals), and based on paragraph (5) of clause (I) of Article (4) of the Zakat Collection Executive Regulations issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which stipulates that "The zakat base consists of all the Taxpayer's assets subject to zakat, including: 5- government and commercial loans and other sources of funding such as creditors, promissory notes, and overdraft accounts that are owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade and a year has passed on it." based on the text of Article 20, paragraph (3), which stipulates the following: "The burden of proving the validity of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the validity of the clauses contained in his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." Based on the above, trade payables are considered a component of the Zakat base provided that they are turned over or used to finance assets that are excluded from the Zakat base, and the Circuit's review of the case file and its contents shows that the Taxpayer only submitted the detailed movement prepared manually as part of his appeal list, and by comparing it with what was mentioned in the financial statements, the balance of the last period did not match and he did not provide the reasons for the discrepancy the Taxpayer did not provide the reasons for the difference, and a review of the list of his objection before the dismissal shows that he attached a table showing the balances of the first and last period and found that it differs from what he submitted at the appeal stage regarding the balance of the last period, so the submitted movement cannot be considered because it was not extracted from the accounting system and matched with the audited financial statements, and the movement submitted by the Taxpayer at the appeal stage proves the turnover on (5,442,292), while the Authority, according to its reply memorandum, states that by reviewing the movement submitted to it, it shows the turnover of (1,301,405) riyals, so it is clear that the detailed movement submitted by the Taxpayer is different, and regarding what the Authority indicated that it reviewed the detailed movement and by reviewing the Authority's reply memorandum before the adjudication and appeal, it became clear that it indicated that it partially accepted the Taxpayer's objection by adding only the amount (1,301,405 riyals) in accordance with the detailed movement submitted by the Taxpayer before the Authority. However, the Circuit did not end the dispute as



submitted by the Authority, but rather upheld the Authority's previous action by adding an amount of (6,151,857) riyals, which leads the Circuit to conclude that the dispute ended with (4,850,452) riyals.

With regard to the Taxpayer's appeal on the clause (application of the Zakat Collection Regulation), and where the Taxpayer's appeal lies in objecting to the application of the Zakat Regulation of 1438 AH, where he stated that it is effective from its effective date, and based on the above, and the Circuit's review of the Executive Regulation for Zakat Collection issued by Ministerial Decision (2048) of 1438 AH, and where the Ministerial Decision included that the regulation replaces all previous circulars, decisions and instructions, the Circuit decides that the Authority's action to apply the regulation to the Zakat assessment in question is valid this does not mean that any actions taken under circulars or decisions prior to the issuance of the regulation are invalid. As for the termination of the royal decree under which the regulation was issued, the appellant did not provide evidence to support that the regulation was issued under a royal decree that was terminated, and the regulation was originally issued under a valid royal decree. therefore, the Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with regard to this clause.

With regard to the Taxpayer's appeal on the remaining clauses, whereas there is no fault for the Circuit to adopt the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with the content of these reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what was included in these reasons, and whereas it is established that the decision under appeal regarding the disputed clauses was consistent with the valid reasons on which it was based and sufficient to support its decision since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the outcome it reached on the clauses at issue in the case, bearing in mind its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:



Decision:

First: accepting the appeal procedurally from the Taxpayer/company...Commercial Register No. (...), Unique number (...), against the decision of the First Circuit of Income Tax Violations and Disputes in Jeddah Governorate No.(IZJ-2023-144288) issued in Case No. (144288-2022-Z) related to the 2016 Zakat assessment.

Secondly: On the Merits:

1- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication authority regarding clause (salary differences).

2- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (the company's share in the losses of the company's ... (subsidiary)).

3- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (remuneration of board members).

4- Rejecting the Taxpayer's appeal and upholding the decision of the Dividends Division.

5- Regarding the Taxpayer's appeal on (other payables):

Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding (other payables in the amount of SAR 1,301,405).

B. Proving the end of the dispute regarding the Taxpayer's appeal for (SAR 4,850,452).

6- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Other Governmental Organization - Suppliers - Amounts due to related parties - Accrued expenses - Payments from customers for the year 2016AD).

7- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause "Investments in ...".

8- Rejecting the Taxpayer's appeal regarding the clause (Application of the Zakat Collection Regulation).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-191654

Case No. Z-2023-191654

Keywords:

Zakat - Zakat assessment - Non-reversibility of accepted clauses - Acceptance of Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the second circuit for adjudicating income tax violations and disputes in Riyadh number (ISR-2023-97353), where his appeal is based on clause (salary and wage differences for the years 2016/2017) as he claims that the differences resulting from the clause were not of a capital nature and that they are actual expenses for employees and related to the activity, and clause (not reflecting the impact of the clauses accepted by the authority for the year 2017 in its notification) due to the authority's failure to reflect the impact of the clauses accepted in its notification. It has been established to the appellate committee that the authority accepted some clauses and rejected others, yet the due zakat amount reached (7,612,518) riyals, which the Taxpayer claims is due to the non-reflection of the impact of the Adjustment on the due zakat. Consequently, the Taxpayer's appeal is accepted and the decision of the circuit is annulled.

Document:

- Paragraph (7) of Article (21) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Article (5) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal filed on 06/04/2023, from /..., National ID No. (...) Was considered as agent for the appellant company under Agency No. (...) Lawyer's License No. (...), and the appeal filed by the Zakat, Tax and Customs Authority on 09/04/2023 against the decision of the Second Circuit for the Resolution of Income Tax Violations and Disputes in Riyadh City (ISR-2023-97353) issued in Case No. (Z-97353-2022) related to the Zakat assessment for the years 2016 and 2017AD, in the suit filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Resolution Circuit ruled as follows: Zakat, Tax and Customs Authority (ZTCA):

- 1- Dismissing the lawsuit with regard to the clause of not justifying the rejection of the 2016 dividend clause.
- 2- Rejecting the claim regarding the clause of not justifying the rejection of the clause of salary and profit difference for the years 2016 and 2017AD.
- 3- Dismissing the claim with respect to the provision of not reversing the effect of the clauses accepted by the Authority for the year 2017 in its notice.
- 4- Cancellation of the defendant's action regarding the clause of consumption differences in the amount of (52,059,415 riyals) for the year 2016AD, as stated in the reasons.
- 5- Rejecting the claim regarding the clause of provisions charged to the period accounts in the amount of (5,507,160 SAR) for the year 2017AD.
- 6- Dismissing the claim regarding the 2016 and 2017 salary difference clause.
- 7- Dismissing the claim regarding the clause of customs duty differences in the amount of (649,843) riyals for the years 2016 and 2017AD.
- 8- Rejecting the claim regarding the clause of adding the amount of allocations to the Zakat base for the year 2016AD.
- 9/a- Confirming the end of the dispute regarding the dividend clause for the years 2016 and 2017 in the amount of (132,740,928) SAR and (139,043,535) SAR respectively.



9/ b) Canceling the defendant's action regarding the clause of dividends for the year 2016AD in the amount of (180,000 SAR).

9(c) Rejecting the plaintiff's objection regarding the dividend clause for the year 2016AD in the amount of (157,079,072) SAR.

10- Dismissing the claim regarding the clause of accrued amounts of (2,621,124 SAR) for the year 2016AD.

11- Rejecting the claim regarding the clause of amounts due to related parties amounting to (778,912,174) riyals for the years 2016 and 2017AD.

12- Cancel the defendant's action regarding the intangible assets clause (7,729,526 riyals) for the years 2016 and 2017AD, as stated in the reasons.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, the Taxpayer claims that the differences of SAR (14,923,213) for 2016 and SAR (14,885,055) for 2017 are due to additional allowances for employees. The company maintains its point of view and relies on paragraph (1/a) of Article 5 of the Executive Regulations of Ministerial Resolution No. (2082) dated 1/6/1438H, and in light of what is stated in the above paragraph, the company would like to clarify to Your Excellency that the differences resulting from the clause were not of a capital nature and that it is an actual expense for employees and is related to the activity (salaries and bonuses for employees) and not related to personal expenses and other activities (salaries and bonuses for employees) it should also be noted that when discussing the objection, the Authority requested a letter from a Certified Public Accountant (CPA) to correct the assessing procedure and confirm that it is an actual expense based on paragraph (1/a) of Article 5 of the Executive Regulations for Zakat Collection and accept the clause, stating its desire to obtain a certificate from a CPA for this clause. The company complied with the Authority's request and provided it with the letter to confirm that there is an error in the assessment on this clause and that these differences are due to actual expenses, and the company incurred fees for proving its point of view before the Authority from a certified public accountant in accordance with its request to accept the deduction of the clause and prove that the company is based on actual expenses in accordance with paragraph (1/a) of Article 5, but after proving this, the Authority rejected the clause based on paragraph (1/a) of Article 5 of the Executive Regulations for Zakat Collection, which the Authority requested a letter from a certified public accountant to correct the



assessment procedure the Authority requested a letter from a certified public accountant to correct the assessing procedure and confirm that it is an actual expense based on paragraph (1/a) of Article 5 of the Zakat Collection Executive Regulations and accept the clause, stating its desire to obtain a certificate from a certified public accountant for this clause. This shows that its reliance is invalid, and that it did not explain its reasons for supporting that it is a non-actual expenditure in accordance with paragraph (7) of Article 21 of the Executive Regulations for the Collection of Zakat. It should also determine its action because it made an attempt to obstruct the Taxpayer and incur fees to prove the validity of the company's action without any action or consideration of its attached requests, and the company provided it with all the data it requested from a certified public accountant so that it could study the objection and confirm that these differences are due to actual employee expenses in accordance with the first paragraph of Article 5, referred to in the above-mentioned article. How can it rely on the same article after the company's proof that it is an actual expense; this is evidence that it did not cause the rejection of the clause because her reasoning for paragraph (1/a) of Article 5 of the same regulation has been invalidated, and with regard to the decision of the Second Circuit that "By referring to the approved lists, it was found that the wage balances are not consistent with what the plaintiff and defendant stated the company would like to emphasize that the difference lies in the fact that the Authority only assessed the amounts mentioned as differences and did not assess them to the amounts mentioned in the CPA's letter. The company should not be held accountable for an error in judgment by the Authority. Accordingly, since the company has proven that the amounts as differences are actual expenses, the company requests Your Excellency to cancel the Authority's action, which was upheld by the Second Circuit. As for the Second Circuit's decision that "due to its failure to submit detailed financial statements for the years 2016 and 2017AD, which leads the Circuit to reject the plaintiff's objection and uphold the defendant's action with regard to this clause," the company wishes to confirm that the company has already submitted the audited financial statements through which the Authority justified the existence of the differences. Accordingly, the company rejects the Second Circuit's reliance in its entirety as it does not reflect what was submitted, and the company requests Your Excellency to consider the Authority's action because it did not fulfill paragraph (7) of Article XXI of the Executive Regulations for the Collection of Zakat. With regard to the Taxpayer's appeal regarding the clause (not reflecting the effect of the clauses accepted by the Authority for the year 2017 in its notice), the Taxpayer claims that the Authority, when issuing its amended assessment to the company after discussing the objection, did not reflect the effect of the clauses it accepted for the year 2017 in its notice, and the company does not agree with the non-reversal of the amounts for the year 2017 from the Authority the company



asserts that what the Authority did is not a notice to the company and that what the Authority did is a clear violation of paragraph (7) of Article XXI of the Zakat Collection Executive Regulations issued by Ministerial Resolution No. (2082) dated 1/6/1448 AH, which states that: "If the Authority decides to amend the Taxpayer's declaration, it shall notify him of the Adjustment made to his Zakat declaration, the reasons for the amendment, the amount of Zakat due, his right to object, and the statutory period specified for the objection, and the notification shall be through the official electronic services." This resulted in the Authority issuing an assessment that does not contain the amount of Zakat due, making it unclear as to the amount of Zakat owed by the company. Since the Authority did not notify the company of the amount of Zakat due by fulfilling the conditions and requirements for assessing in accordance with the above paragraph of the regulation, the company requests Your Excellency to cancel the Authority's action, and the company rejects the reasons contained in the Second Circuit's decision regarding this clause regarding what the Second Circuit relied on as "... The Circuit concludes to reject the plaintiff's objection and uphold the defendant's action with regard to this clause," as the company has proven the validity of its objection through the two attachments, the notice of the result of the objection and the issued assessment notice, and the company rejects the Authority's action by not notifying the company of the due Zakat, which is prohibited by the Executive Regulations for the Collection of Zakat, in order to preserve the rights of Taxpayers and to clarify the clauses that the Taxpayer can object to as a matter of transparency and not misleading the Taxpayer. The Company would like to clarify to Your Excellency that after reviewing the protest result notice, which contains the amount of Zakat due for the year 2017 after the protest in the amount of (7,612,518) SAR - the same amount in the assessment notice before discussing the objection and accepting some clauses - it is clear to Your Excellency that the company has correctly explained its point of view regarding the Authority's action by not applying paragraph (7) of Article XXI, as the amended assessment was missing the amount of Zakat due to the company for 2017AD, which is an essential pillar of the assessment as paragraph (7) of Article XXI explicitly states "and the amount of Zakat due." Therefore, the Taxpayer requests the reversal of the decision of the Circuit for the clauses under appeal for the above reasons.

The Zakat, Tax and Customs Authority did not accept the decision, so it filed a list of appeals, which was reviewed by the Circuit and included a request to accept its appeal and overturn the decision of the Adjudication Circuit.

On Sunday, on: 09/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication



in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the working rules of zakat, tax and customs committees issued by Royal Decree No: (25711) and dated: 08/04/1445 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 reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, 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 means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

The Taxpayer's appeal relates to the clause (Salaries and Wages Differences for the year 2016AD/2017), and the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as he claims that the differences resulting from the clause were not of a capital nature and were actual expenses of the employees related to the activity. Based on paragraph (7) of Article (21) of the executive regulations for zakat collection issued by ministerial decision (2082) dated 1/6/1438, which states: "7- If the authority sees the need to amend the Taxpayer's declaration, it shall notify him of the Adjustment made to his zakat declaration, the grounds for the amendment, the amount of zakat due, his right to object, and the legal period specified for objection, and the notification shall be sent by registered mail or by any other means that proves receipt of the notification, including notification through official electronic services." based on the above, and where the Taxpayer explained that the differences amounted to (14,923,213) riyals for 2016 and (14,885,055) riyals for the year 2017 are due to additional allowances for employees, and upon reviewing the amendment letter, it is clear that the Authority rejected the clause based on paragraph (1/a) of Article 5 of the Regulations, and the Taxpayer explained in his appeal list that the Authority requested a letter from a chartered accountant at the examination stage to confirm the balances of the salaries and wages account as an actual expense, and upon reviewing the chartered accountant's letter, it is clear that the auditor carried out the audit procedures on the salaries and wages account for the disputed year according to the audited financial statements, and it is proven that the Authority requested a chartered accountant's letter to analyze the payroll the Taxpayer provided the necessary information to the Authority in accordance with the correspondence that took place, and the rejection of the Taxpayer's objection is not



reasoned according to the amendment letter and the Authority's failure to clarify the reasons for the rejection, and the Taxpayer provided proof that the expenses are actual expenses before it and the adjudication committee, and the Authority merely stated that the salary differences are actual expenses salary differences are overcharged expenses that are not deductible in accordance with the provisions of Article (6) Paragraph (2) of the Executive Regulations for Zakat Collection issued by Ministerial Decision (2082) dated 1/6/1438AH, which leads the Circuit to accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit regarding this clause.

Regarding the Taxpayer's appeal regarding the clause (not reflecting the effect of the clauses accepted by the Authority in 2017 in its notice), and where the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as he claims that the Authority did not reflect the effect of the clauses it accepted in its notice, and based on paragraph (7) of Article (21) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution (2082) dated 1/6/1438H, which states that: "7- If the authority sees the need to amend the Taxpayer's declaration, it shall notify him of the Adjustment made to his zakat declaration, the grounds for the amendment, the amount of zakat due, his right to object, and the legal period specified for objection, and the notification shall be sent by registered mail or by any other means that proves receipt of the notification, including notification through official electronic services." Based on the above, and since the dispute lies in the non-reflection of the Adjustment made in 2017AD, the Taxpayer clarified in his appeal statement that the amendment letter submitted by the authority does not constitute a notification to the Taxpayer, and upon reviewing the submitted documents (the authority's assessment), it is clear that the due zakat amount reached (7,612,518) riyals, and upon reviewing the partial acceptance notification for the year 2017AD, which indicates that the authority accepted some clauses and rejected others, yet the due zakat amount reached (7,612,518) riyals, which the Taxpayer claims is due to the non-reflection of the impact of the Adjustment on the due zakat, which leads the committee to accept the Taxpayer's appeal and cancel the decision of the adjudication committee regarding this clause.

With regard to the Taxpayer's and the Authority's appeal on the remaining clauses at issue in the case, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them if it determines that these reasons make it unnecessary to introduce anything new, because in upholding them, it is clear that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and since this is the case and it is proven that the decision under appeal regarding the dispute regarding the clauses under appeal was consistent with the valid reasons on which it was based and



sufficient to carry its judgment since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants censure or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal, reject the Authority's appeal, and uphold the decision of the Adjudication Circuit with respect to the rest of the clauses in the case, in accordance with its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer / Company ..., Commercial Registration (...), Unique Number (...) Against the decision of the second circuit for adjudicating income tax violations and disputes in Riyadh with number (ISR-2023-97353) issued in case number (Z-97353-2022) related to the Zakat assessment for the years 2016 and 2017AD.

Second: On the Merits:

- 1- Rejecting the authority's appeal and upholding the decision of the adjudication committee regarding clause (intangible assets for the years 2016 and 2017).
- 2- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication committee regarding clause (profit distributions for the year 2016AD).
- 3- Accepting the Taxpayer's appeal and canceling the decision of the adjudication committee regarding clause (salary and wage differences for the years 2016/2017).
- 4- Acceptance of the Taxpayer's appeal and cancellation of the decision of the Appeals Circuit regarding clause (not reversing the effects of the clauses accepted by the Authority for the year 2017 in its notice).
- 5- Rejection of the Taxpayer's appeal and affirmation of the decision of the Appeals Circuit regarding clause (allocations charged to the accounts for the year 2017).
- 6- Rejection of the Taxpayer's appeal and affirmation of the decision of the Appeals Circuit regarding clause (differences in customs duties for the years 2016 and 2017).
- 7- Rejection of the Taxpayer's appeal and affirmation of the decision of the Appeals Circuit regarding clause (adding the amount of allocations to the zakat base for the year 2016AD).



8- Rejection of the Taxpayer's appeal and affirmation of the decision of the Appeals Circuit regarding clause (adding amounts due to the zakat base for the years 2016 and 2017).

9- Rejection of the Taxpayer's appeal and affirmation of the decision of the Appeals Circuit regarding clause (adding amounts due to related parties for the zakat base for the years 2016 and 2017).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024- 180308

Case No. Z-2023-180308

Keywords:

Zakat – Zakat assessment – illegality of opening the assessment and amending the zakat declaration – acceptance of the Taxpayer's appeal

Summary:

Objection of the Taxpayer to the decision of the second circuit for adjudicating violations and disputes of income tax in Riyadh number (ISR-2022-60167), where his appeal lies on clause (loans and similar for the years from 2007 to 2010) because the nature of these amounts is loans that need to be repaid and not Revenues for the corporation, and clause (illegality of opening the assessment and amending the zakat declaration for the years from 2007 to 2010), due to his submission of declarations and payment of the due zakat. And since it has been established to the Appellate Committee that the Taxpayer has attached the zakat declarations for the years in dispute along with the payments and also the re-assessing, which indicates that the Taxpayer has submitted all declarations for the years in dispute. Consequently; accepting the Taxpayer's appeal and canceling the decision of the adjudication authority.

Document:

- Paragraph (10) of Article (21) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 02/26/2023 from ..., National ID No. (...), as the owner of the appellant establishment under the commercial register, and the appeal filed on 05/03/2023 from, as the owner of the appellant organization under the commercial register, and the appeal filed on 05/03/2023 from the Zakat, Tax and Customs Authority, against the decision of the Second Circuit for the Adjudication of Income Tax Violations



and Disputes in Riyadh (ISR-2022-60167) issued in Case No. (Z-95158-2022) related to Zakat fees for the years 2007 to 2017AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: The Taxpayer's claim is filed by the Taxpayer against the Zakat, Tax and Customs Authority:

First: accepting the lawsuit filed by the plaintiff (...), National ID No. (...), owner (branch of ...), commercial registration No. (...), against the defendant/Zakat, Tax and Customs Authority, procedurally.

Secondly: On the Merits:

1/A- Dismissing the case with regard to the statute of limitations clause for the years 2007 to 2010.

1/B- Annulment of the defendant's action with respect to the statute of limitations for the years 2011 to 2015.

2/a- Dismissing the case with regard to the loans and similar clauses for the years 2007 to 2010.

2/B - Cancel the defendant's action with regard to the clause of loans and the like for the years 2011 to 2015.

3- Dismissing the claim regarding the clause of bank deposits in excess of Revenues.

As this decision was not accepted by the Taxpayer (Zakat Foundation), the Taxpayer submitted a list of appeals. The Taxpayer's appeal is based on the clause (Irregularity of opening the assessment and amending the Zakat return for the years 2007 to 2010). The Taxpayer explains that the returns were submitted and the due Zakat was paid, and that the Authority examined the returns for these years and issued amendment notices, and where the Authority stated "Reference to the objection submitted by you to object for the years 2007 to 2017AD, through which you object to the Adjustment made by the Authority to the return for the years 2007 to 2017AD," which is an admission by the Authority to the submission of the declarations. The new executive regulations were issued by Ministerial Decision No. (2216) dated 7/7/1440 A.H. The first article of the decision states: "This regulation replaces the previous regulation issued by Ministerial Decision No. (2082) dated 1-6-1438 A.H., and all previous decisions, instructions and circulars 1438 AH, and all previous decisions, instructions and circulars related to the collection of Zakat, and cancel all provisions that contradict them, and apply to fiscal years starting on and after 1-1-2019 for all Taxpayers except those who are accounted for using the estimated method according to the fourth chapter of the regulation, so the regulation applies to their returns submitted after 31-12-2019. The Authority's objectionable amendment was issued on 9/16/2021 corresponding to 9/2/1443 AH, i.e. After the issuance of the Zakat Regulation,



and the Authority should have applied Article 4 paragraph (3) of the new executive regulation, this paragraph provides for long-term obligations (loans) and within the limits of discounts, and the decision of the Minister of Finance No. (13957) dated 23/03/1444 AH was issued to apply the new regulation to the years before 1/1/2019. Regarding the deposits, we request to cancel the action taken by the Committee, in which it supported the Authority by accepting the cancellation of adding the loans to the Zakat base and adding them as Revenues to the accounting profit, because the nature of these amounts are loans to be repaid and not Revenues for the organization, and we request that they be added as loans within the limits of the deductible as stated in the third paragraph of the aforementioned regulation. The Authority also did not look at the financial statements, which the Authority dismissed, despite the fact that the establishment is considered one of the Taxpayers who maintain regular accounts, but the Authority left the contents of these lists and regular accounts and did not look at them, and the Authority supported it in this, despite the fact that the financial statements are the true measure of the activity and the ones that truly reflect the reality of the activity, namely the lists in which Revenues are specified according to the completion rates and extracts submitted to the entities dealing with the organization. He requests that his appeal be accepted and the decision of the Adjudication Circuit be reversed. This decision was not acceptable to the appellant (Zakat, Tax and Customs Authority), so it filed a list of appeals, which was reviewed by the Circuit, in which the Authority requested that its appeal be accepted and the decision of the Adjudication Circuit be reversed.

On Monday, 20/05/2024, 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 (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 08/04/1445AH 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:



The conditions for considering the appeal procedurally are fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and decisions, which means that the appeal requests are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their conduct.



The Taxpayer's appeal relates to the irregularity of opening the assessment and amending the Zakat return for the years 2007 to 2010, where the Taxpayer's appeal lies in submitting the returns and paying the due Zakat, and based on paragraph (8) of Article (21) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438H, which stipulates that "the Authority is entitled to make or amend the assessment at any time without being bound by a period in the following cases: A- If the Taxpayer has agreed in writing to conduct the assessment or amend it. B- If the Taxpayer did not submit his declaration. C- If it is found that the declaration contains incorrect information." - And based on paragraph number (10) of Article (21) thereof, "10- The Authority may correct the error in the application of the law and instructions within five years from the end of the deadline for submitting the zakat declaration for the zakat year based on the Taxpayer's request, or if the error is discovered by the Authority or by the regulatory authorities." And based on the above, and upon the circuit's review of the documents, it became clear to it that the Taxpayer had attached the zakat declarations for the years in dispute along with the payments and also the re-assessing, which indicates that the Taxpayer has submitted all declarations for the years in dispute, and regarding the year 2008, and through the zakat payment receipt dated 11/04/1430AH corresponding to 07/04/2009, as the period for submitting the declaration had not ended (within 120 days), and regarding the years 2007, 2009, and 2010, the Taxpayer submitted the zakat declarations on 14/05/2008, 08/05/2010, and 28/06/2011 respectively, after the legal deadline for submitting the zakat declarations had expired, and since the dispute is fundamentally about the non-submission of the declarations and since the Authority has five years for the assessment and it conducted the assessment on 16/09/2021 after the legal deadline, the circuit concludes to accept the Taxpayer's appeal and cancel the decision of the Appeals Circuit regarding this clause.

With regard to the Taxpayer's appeal on the clause (Loans and the like for the years 2007 to 2010), and where the Taxpayer's appeal is based on the fact that the nature of these amounts are loans to be repaid and not Revenues for the organization, and based on the above, and where this clause is related to the clause (Irregularity of opening the assessment and amending the Zakat declaration for the years 2007 to 2010) whereas, the decision of the Circuit concluded that the Taxpayer's appeal should be accepted and the decision of the Adjudication Circuit should be annulled because the Authority's action was invalid, and based on the rule (if the original falls, the branch falls), and what is related to it takes its judgment, which concludes that the Circuit should accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit with regard to this clause.



With regard to the Taxpayer's and the Authority's appeal on the remaining clauses, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting them with the content of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the appeal of the Taxpayer and the Authority and uphold the decision of the Adjudication Circuit in its conclusion on the remaining clauses, bearing in mind its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: 1- Acceptance of the appeal procedurally from the applicant/ ... Corporation Number (...), unique number (...), and the Zakat, Tax and Customs Authority, against the decision of the second circuit for adjudicating violations and disputes of income tax in Riyadh with number (ISR-2022-60167) issued in case number (Z-95158-2022) related to Zakat assessment tags for the years from 2007 to 2017AD.

Second: On the Merits:

- 1- Rejection of the Authority's appeal and affirmation of the decision of the Appeals Circuit regarding clause (statute of limitations for the years from 2011 to 2015).
- 2- The rejection of the authority's appeal and the affirmation of the decision of the adjudication committee regarding the clause (loans and similar clauses for the years from 2011 to 2015).
- 3- The acceptance of the Taxpayer's appeal and the annulment of the decision of the adjudication committee regarding the clause (illegality of opening the assessment and amending the zakat declaration for the years from 2007 to 2010).
- 4- The acceptance of the Taxpayer's appeal and the annulment of the decision of the adjudication committee regarding the clause (loans and similar clauses for the years from 2007 to 2010).
- 5- The rejection of the Taxpayer's appeal and the affirmation of the decision of the adjudication committee regarding the clause (bank deposits exceeding Revenues).



Estimated Assessment



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-180372

Case No. Z-2023-180372

Keywords:

Zakat - Estimated Assessment- Accepting the Authority's Appeal

Summary:

The objection of the Zakat, Tax and Customs Authority to the decision of the Third Circuit regarding violations and disputes of income tax in Riyadh numbered (IFR-2021-6920), where its appeal is based on the clause (Estimated Zakat for the year 1442H) for calculating the applicable rate on the Zakat base in an estimated manner. And since it has been established to the appellate committee that the Taxpayer is among the categories subject to the rules for calculating Zakat for estimated Taxpayers, it is therefore the right of the authority to collect information and calculate Zakat on the Taxpayer in an estimated manner according to those rules that stipulate estimating profits for the Taxpayer's activity at a rate of (15%) of the sales declared in the VAT returns, and estimating capital by dividing those sales by (8). The implication of this; acceptance of the authority's appeal and cancellation of the decision of the adjudicating circuit.

Document:

- Paragraph (3) of [Rules for Calculating Zakat for Estimated Taxpayers issued by the Minister of Finance's decision No. \(852\) dated 28/02/1441H](#)

Facts:

The appeal filed on 26/02/2023 AD by the Zakat, Tax and Customs Authority (ZTCA) against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2021-6920) issued in Case No. (Z-75775-2021) related to the Zakat assessment for the year 1442 AH, in the case filed by the



Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

Accepting the objection on the formal side, and on the merits, canceling the defendant's decision.

As this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it filed a list of appeals, which included the following:

The Authority disagrees with the decision of the Adjudication Circuit, as the appellant (the Authority) requests the annulment of the Circuit's decision on this clause for the following reasons: 1. Authority notes that the decision came in its merits to amend the Authority procedure, but in the operative part of the decision, the decision came to cancel the Authority procedure, and the Authority requests that the decision be corrected to conform the merits to the operative part of the decision. 2. the Authority maintains the contents of its Reply Memorandum submitted to the Adjudication Circuit, and refers to it in order to avoid repetition and prolongation. 3. the Authority clarifies that its decision is in accordance with the provisions of Articles (III) and (IV) of the rules for calculating Zakat for discretionary Taxpayers issued by the Minister of Finance Decision No. (852) dated 28/02/1441 AH, whereas, the Zakat base was calculated based on VAT sales, and accordingly, the Authority exercised its authority granted to it accordingly, which authorizes it to charge the Taxpayer in accordance with the information and data obtained from the information and data to which the Authority has the right to refer to enable it to calculate the Zakat base that fairly reflects the reality of the Taxpayer's activity in light of the circumstances and facts related to the case and the information available to the Authority, either through documented evidence and evidence provided by the Taxpayer, either through the evidence and evidence provided by the Taxpayer, in a fair manner, or by referring directly and continuously to any information directly related to the Taxpayer that is maintained by a third party showing the size of his imports, contracts, employment, loans and subsidies obtained by the Taxpayer. 4 the Circuit issuing the decision under appeal canceled the Authority's decision and concluded that the commercial register capital was taken without taking into account what was stated in the rules for calculating my estimated Zakat, which explicitly stipulated the calculation mechanism, as the Authority applied the content of what was stated in the rules and calculated the Taxpayer based on value-added sales in proportion to the period of Zakat accrual, which the Taxpayer disclosed in the value-added declarations, which was not submitted by the Taxpayer at the objection stage the Authority took the third quarter 2021 declaration that was not submitted by the Taxpayer at the objection stage, so the sales that belong to the declaration period were taken by taking part of the declaration of the third quarter 2020, the fourth quarter



2020 and the first and second quarters 2021, with total sales of 16,360,689 SAR. Therefore, there is no validity to the decision, as it was calculated based on VAT sales in proportion to the Zakat accrual period, which the Taxpayer disclosed in his VAT declarations in accordance with the rules of accounting for estimated Taxpayers No. 2502 dated 03/07/1442, and the Authority confirms the correctness and integrity of its procedure, and therefore, the Authority requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above reasons.

On Tuesday, April 30, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, and where the Circuit found nothing to require the presence of the parties to the appeal, the Circuit decided that the case has become ready for adjudication and issuing a decision on its subject, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:



upon reviewing the case documents and the appeal list submitted by the Authority, 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 means that the appeal request is accepted procedurally, as it was submitted by a person with standing, and within the statutory period prescribed for its conduct.

On the substance of the dispute, and whereas, with regard to the Authority's appeal on the clauses at issue in the case, and after the Circuit's consideration of the Authority's appeal, and based on paragraph (3) of the rules for calculating the estimated zakat of the Taxpayer issued by the Minister of Finance Decision No. (852) dated 28/02/1441 AH which stipulates: "The zakat base for a Taxpayer subject to these rules shall be estimated by determining a capital commensurate with the size of the Taxpayer's activity according to the following formula: $(\text{sales}/8) + (\text{sales} \times 15\%)$ and not less than the capital stated in the commercial register, licenses required for the activity, or any other documents through which the Authority can determine the capital", and based on the opinion of the Appellate Committee, which reads as follows:" according to the Circuit's review of the study related to the estimated profitability of the fuel transportation activity, the calculation of sales is based on the nature of the Taxpayer's activity, as sales, according to accounting and



legal principles, represent the value of what the Taxpayer owns, and what he collects and pays on behalf of other parties is not included in his sales, which should be applied to all Taxpayers, including those working in the fuel transportation activity, whose activity is limited to transporting petroleum products only from Aramco to gas stations and do not own the transported goods."

Upon reviewing the case file and the documents available therein, and since the dispute lies in calculating the applicable rate on the Zakat base in an estimated manner, and since the Taxpayer is among the categories subject to the rules for calculating Zakat for estimated Taxpayers, it is therefore the right of the authority to collect information and calculate Zakat on the Taxpayer in an estimated manner according to those rules that stipulate estimating profits for the Taxpayer's activity at a rate of (15%) of the sales declared in the VAT returns, and estimating capital by dividing those sales by (8), but upon reviewing the opinion of the aforementioned appellate committee, since Taxpayers engaged in the fuel activity do not own the goods and their activity lies only in transporting them, they should be held accountable only for their activity, and since the burden of proof lies with the Taxpayer, and since the Taxpayer did not provide evidence of the profit percentage from the Revenues taken from VAT sales, it is necessary to accept the authority's appeal and cancel the decision of the adjudication committee regarding the clause (Estimated Zakat for the year 1442H).

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:

Decision:

First: Acceptance of the appeal procedurally from its submitter, the Zakat, Tax and Customs Authority against the decision of the third division regarding violations and disputes of income tax in Riyadh with number (IFR-2021-6920) issued in case number (Z-75775-2021) related to the Zakat assessment for the year 1442AH.

Secondly: On the Merits:

Acceptance of the appeal of the authority and cancellation of the decision of the adjudication circuit regarding clause (the Zakat assessment for the year 1442 AH).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-186944

Case No. Z-2023-186944

Keywords:

Zakat- Estimated Assessment -Accepting the Taxpayer's Appeal

Summary:

The Taxpayer's objection to the decision of the third circuit regarding violations and disputes of income tax in Riyadh number (ITR-2022-135938), where his appeal is based on clause (the estimated Zakat assessment for the year 1442 AH) because the nature of the corporation's activity is solely the transportation of petroleum materials without trading in them. And since it has been established to the appellate committee that it is necessary to calculate sales considering the nature of the Taxpayer's activity, and that the basis for calculation mentioned in the equation in clause (third) of the rules for calculating zakat for estimated Taxpayers does not reflect the actual reality of the Taxpayer's activity and the net profit achieved from the sales pertaining to the Taxpayer, it is clear that the authority did not exercise all the powers granted to it which allow it to calculate zakat fairly, and since the Taxpayer provided the necessary financial statements and invoices that support his objection. Consequently, the Taxpayer's appeal is accepted and the decision of the circuit is annulled.

Document:

- Paragraph (3) of [Rules for Calculating Zakat for Estimated Taxpayers issued by the Minister of Finance's decision No. \(852\) dated 28/02/1441H](#)
- Paragraph (6) of Article (10) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)



Facts:



The appeal was heard on: 14/03/2023 from/... National ID number (...) In his capacity as the owner of the appellant organization on the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ITR-2022-135938) issued in Case No. Z-135938-2022 regarding the estimated Zakat assessment for the year 1442 AH, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

Acceptance of the plaintiff's ... Commercial Register No. (...) The decision of the defendant/Zakat, Tax and Customs Authority is upheld procedurally and rejected in substance.

Since this decision was not accepted by the Taxpayer (... Foundation), he filed a list of appeals, which included the following:

The Taxpayer objects to the decision of the Adjudication Circuit, claiming that with regard to the clause (Estimated Zakat assessment for the year 1442 AH) that the nature of the activity of the organization is the transportation of petroleum materials only without trading in them, and that he previously sent all the contracts between him and the customers as well as all the amounts of transfers that prove this to the email shown on the site, which the decision under appeal shows that the committee did not see them; therefore, all contracts signed with sub-clients and the amounts of transfers were uploaded to the company ... Therefore, the Taxpayer requests the reversal of the decision of the Adjudication Circuit for the above reasons.

On Sunday, June 23, 2024, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; 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 Order No. (26040) and dated: after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.



Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, 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 formally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

The Taxpayer's appeal regarding the clause (Estimated Zakat assessment for the year 1442 AH) is that the nature of the organization's activity is the transportation of petroleum materials only without trading in them, and that he submitted documents in support of his objection. Paragraph (6) of Article (10) of the Executive Regulations for Zakat Collection for 1440 A.H. stipulates that "The Authority has the authority to set minimum and maximum limits for the components of the zakat estimation for the Taxpayer who accounts by the estimated method, based on different cities, seasons, occasions, and any circumstance affecting the estimation." Based on the above, the decision under appeal rejected the Taxpayer's objection for failing to submit the contracts concluded with his customers and the proof of fuel purchase, but this is in violation of the principle the multiplicity of these evidences replaces the evidence proving that his activity is limited to the transportation of fuel, which he collects and pays on behalf of his customers without considering them as sales, and because the VAT sales included in the appellant's declarations do not reflect the reality of his actual activity but contain amounts that he collects and pays on behalf of others due to the nature of his activity. This does not affect the Authority's argument that the Taxpayer has activities that are not included in the financial statements; the commercial register related to the case is the number (...), while the other activities (gas station, catering, and gas station) have different commercial register numbers, and based on the above-mentioned statutory text, the sales must be calculated considering the nature of the Taxpayer's activity, and that the basis of calculation contained in the formula in clause (III) of the rules for calculating the estimated Zakat does not reflect the actual reality of the Taxpayer's activity and the net profit realized from the sales that belong to the Taxpayer, thus it is clear that the Authority did not exercise the full powers granted to it which entitles it to calculate Zakat in a fair manner, and where the Taxpayer submitted the necessary financial lists and invoices supporting his objection, with which the Circuit concludes to accept the appeal and cancel the Taxpayer's appeal

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:



Decision:

First: Acceptance of the appeal procedurally from the appellant Taxpayer/ corporation ..., commercial register (...), Unique number (...) Against the decision of the third circuit regarding violations and disputes of income tax in Riyadh number (ITR-2022-135938) issued in case number (Z-135938-2022) related to the estimated Zakat assessment for the year 1442 AH.

Second: On the Merits:

Acceptance of the Taxpayer's appeal and cancellation of the decision of the adjudication circuit regarding clause (the estimated Zakat assessment for the year 1442 AH), according to the grounds and justifications mentioned in this decision.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-191136
Case No. ZIW-2023-191136

Keywords:

Zakat - Estimated Assessment - Declarations on the Commercial Register - Acceptance of Taxpayer's Appeal

Summary:

The Taxpayer's objection to the decision of the third circuit for resolving income tax violations and disputes in Riyadh, No. (2022-64432-ZIWR), and his appeal lies on the clause (declarations on the commercial register) because all declarations on the commercial register expired on 19/05/1429 AH and the commercial register was deleted from the Ministry of Commerce on 16/03/1434 AH. And since it has been established to the appellate committee that the obligation to pay zakat is related to practicing and conducting an activity intended to achieve profit, and since the authority did not attach any document proving the Taxpayer's practice of commercial activity during that period, by the concept of contradiction; the non-application of the commercial register and its expiration is considered evidence of not practicing commercial activity and thus the invalidity of the authority's action in the estimated assessment. This means; accepting the Taxpayer's appeal and canceling the decision of the adjudicating circuit.

Document:

- Article (7) of [The Code of Criminal Procedure issued by Royal Decree No. \(M/1\) dated 21/02/1435 AH.](#)

Facts:

The appeal was heard on 29/03/2023, from/...(National ID #) As a former owner of a... Commercial Register No. (...), on the decision of the Third Circuit for the Adjudication of Income Tax Violations and Disputes in Riyadh, No. (2022-64432-ZIWR) issued in case No. (2022-93222-ZIW) regarding the estimated Zakat assessment for the years 1429H to 1433H and 1442H, in the case filed by the appellant against the



Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: The appellant's appeal is filed against the Zakat, Tax and Customs Authority:

The case is inadmissible procedurally.

As this decision was not accepted by the Taxpayer (...), he submitted an appeal list, which was reviewed by the Circuit, where the Taxpayer's appeal lies on the clause (year 1442 AH). The Taxpayer explains that all declarations on the commercial register expired on 19/05/1429 AH, and the commercial register was canceled by the Ministry of Commerce on 16/03/1434 AH. He requests that his appeal be accepted and the decision of the Adjudication Circuit be reversed.

On Monday, 27/05/2024 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 (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. 25711 and dated: 08/04/1445 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 reviewing the case documents and the appeal list submitted by the Taxpayer, 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 formally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

The Taxpayer's appeal is based on the fact that all the declarations on the commercial register expired on 19/05/1429 AH, and the commercial register was expunged from the Ministry of Commerce on 16/03/1434 AH, and based on Article (7) of the Commercial Register Law issued by Royal Decree No. M/1 and dated 21/02/1416 AH, which stipulates that article (7) of the Commercial Registration Law issued by Royal Decree No. M/1 dated 21/02/1416H, which stipulates that "The merchant, his heir or liquidator - as the case may be - must apply to the Commercial Registration Office for deletion of the registration in the following cases 1 - The trader permanently leaves his trade. 2 - The trader dies. 3 - The termination of the



company's liquidation. The application must be submitted within ninety days from the date of the incident that requires the cancellation of the registration. If the concerned parties do not submit a cancellation request, the commercial registry office, after verifying the incident and notifying the concerned parties by registered mail, will cancel the registration on its own after thirty days from the date of notification unless it receives from the concerned party during this period evidence that refutes this incident. In the event of a final ruling or decision to cancel the registration in accordance with the applicable regulations, the competent commercial registry office shall proceed with the cancellation as soon as it is notified of the ruling or decision. Upon returning to the Ministry of Commerce's website to verify the validity of the commercial registration, it was found that the status of the commercial registration is (canceled), and the registration expiration date is 30/03/2013, which corresponds to the date 19/05/1429, and since the assessment was issued for the year 1442, it is after the expiration of the commercial registration and its cancellation. Since the obligation to pay zakat is related to engaging in activities intended to generate profit, and since the authority did not attach any document proving that the Taxpayer engaged in commercial activity during that period, by implication; the non-validity of the commercial registration and its expiration is considered evidence of not engaging in commercial activity and thus the authority's action of estimated assessment is invalid, which leads the committee to accept the Taxpayer's appeal and cancel the decision of the adjudication committee and the authority's action in this regard.

With regard to the Taxpayer's appeal on the clause (for the years 1429 AH to 1433 AH), the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it determines that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the contents of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and since this is the case and it is proven that the decision under appeal regarding the disputed clauses was in accordance with the valid reasons on which it was based and sufficient to carry its judgment as the issuing circuit scrutinized the dispute and reached the conclusion it reached in the operative part of its decision, and as this circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, this circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in this clause, bearing in mind its reasons.

Based on the foregoing and in light of the reasons stated above, the Court unanimously ruled as follows:



Decision:

First: Acceptance of the appeal procedurally, from the applicant/ ... Identity number (...), unique number (...), against the decision of the third circuit for adjudicating income tax violations and disputes in Riyadh with number (2022-64432-ZIWR) issued in case number (2022-93222-ZIW) related to the estimated Zakat assessment for the years from 1429 to 1433, and the year 1442.

Second: On the Merits:

- 1- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication committee regarding clause (for the years 1429 to 1433).
- 2- Accepting the Taxpayer's appeal and canceling the decision of the adjudication committee and the authority's action regarding clause (for the year 1442).



Committee for adjudicating tax violations and disputes
The first division for adjudicating income tax violations and disputes
In Riyadh

Decision No. Z -233752-2024

Case No. Z -233752-2024

Keywords:

Zakat - Estimated Assessment- Calculation of Discretionary Zakat Allowance - Rejection of Taxpayer's Claim

Summary:

The Taxpayer's objection to the percentage applied when calculating the estimated Zakat base for the year 1444H issued by the Income Tax Violations and Disputes Adjudication Circuit, where the Taxpayer demands that the Zakat assessment be reinstated according to the actual accounts and expenses supported by documentary evidence. The committee found that the Authority collected the information and calculated Zakat according to the rules related to the estimation of profits for the Taxpayer's activity and the estimation of capital and the correctness of its application to the sales declared in the VAT declarations submitted by the Taxpayer. The effect of this is to reject the Taxpayer's objection regarding the Zakat assessment and the claim for expenses when making the estimated assessment.

Document:

- Paragraph (3) of [The rules for calculating Maklafi's estimated Zakat issued by Ministerial Decree No. 852 dated 02/28/1441 AH.](#)

Facts:

The facts of this case are that the plaintiff ... National ID number (...) As the owner of the institution. (Commercial Registration No. ...), filed his objection to the Zakat assessment for the year 1444 AH issued by the Zakat, Tax and Customs Authority, where the plaintiff indicated in his list of claims that the sales amounted to (57,776,367) riyals, and the purchases amounted to (54,887,549) riyals, he added that the defendant estimated the capital of the organization by dividing the Revenues by (8), while the capital is (25,000) riyals according to the commercial register, and the administrative and general expenses during



the year amounted to (4,358,721) riyals, and therefore he demands that the Zakat assessment be restored according to the actual accounts and expenses supported by documentary evidence.

The defendant responded that its decision was in accordance with the provisions of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. (2216) dated 07/07/1440 AH and the rules for the calculation of Zakat for discretionary Taxpayers issued herein

The Zakat base was calculated based on the value of VAT sales, which is related to the Zakat return period. Therefore, it requests that the case be dismissed, while reserving its right to submit further responses and clarifications until before the closing of the pleadings.

On Sunday, December 03, 1445 A.H., the Circuit held a remote session to hear the case, which was not attended by the plaintiff or his representative despite the fact that he was legally notified. (National ID No. ...), as a representative of the defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) And the date is 19/03/1445 AH. When the defendant's representative was asked about the plaintiff's claim, it replied that it confirms what was stated in the defendant's reply list and that no new documents that were not submitted to the defendant during the examination and objection phase are admissible. When asked if it had any further statements to make, the Defendant's representative stated that it did not. Therefore, the Court decided to conclude the pleadings and deliberations.

Grounds:



Having reviewed the Zakat Law issued by Royal Decree No. (17/28/577) dated 14/03/1376H and its Executive Regulations issued by Minister of Finance Decision No. (2082) dated 01/06/1438H and its Adjustment , and having reviewed the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425H and its Adjustment (M/1) dated 15/1/1425H and its Adjustment , and its Executive Regulations issued by Minister of Finance Decision No. (1535) dated 11/6/1425H and its Adjustment , and after reviewing the working rules of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445H. And relevant laws and regulations.

Procedurally, since the plaintiff aims to cancel the decision of the Zakat, Tax and Customs Authority regarding the Zakat assessment for the year 1444 AH, and since this dispute is a zakat dispute, it is considered one of the disputes within the jurisdiction of the Income Tax Violations and Disputes Resolution



Committee under Royal Decree No. (25711) dated 08/04/1445 AH, and since it is proven from the case documents that the plaintiff was informed of the result of the objection on 07/03/2024, and he submitted the case through the electronic portal on 21/03/2024 that the plaintiff was informed of the result of the objection on 07/03/2024, and submitted the lawsuit through the electronic portal on 21/03/2024, so the lawsuit was submitted within the legally prescribed period in accordance with Article (5) of the Zakat, Tax and Customs Committees' working rules, and since the lawsuit was submitted by a person with standing, the Circuit must accept the lawsuit procedurally.

On the merits, the Circuit examined the papers and documents included in the case file, and the requests, defenses, and arguments of the parties, and found that the dispute lies in the plaintiff's objection to the percentage applied when calculating the estimated zakat base for 1444 AH, while the defendant argued that its decision was in accordance with the provisions of the Executive Regulations for the Collection of Zakat and the rules for calculating the estimated zakat base the defendant argued that its decision was in accordance with the provisions of the Executive Regulations for Zakat Collection and the rules for calculating Zakat for discretionary Taxpayers, based on paragraph (3) of the rules for calculating Zakat for discretionary Taxpayers issued by Minister of Finance Decision No. (852) dated 28/02/1441H, which stipulates that "The zakat base for a Taxpayer subject to these rules is estimated by determining a capital commensurate with the size of the Taxpayer's activity according to the following formula: $(\text{sales}/8) + (\text{sales} \times 15\%)$ and not less than the capital contained in the commercial register, licenses required for the activity or any other documents through which the Authority can determine the capital." Based on the above, since the plaintiff is one of the categories subject to the rules for calculating Zakat for discretionary Taxpayers, the defendant has the right to collect information and calculate Zakat on him in accordance with those rules, which provide for estimating profits for the plaintiff's activity at 15% of sales declared in VAT declarations, and estimating the capital by dividing those sales by (8), as well as estimating the profits of the plaintiff's activity by (15%) of the sales declared in VAT declarations after reviewing the documents submitted by both parties, the Circuit found that the defendant's procedure of applying the aforementioned formula to the sales declared in the plaintiff's VAT declarations was correct. As for the plaintiff's claim to consider expenses when making the estimated assessment, the estimated accounting of 15% profit means that his estimated expenses constitute 85% of his Revenues, which makes it necessary for the Circuit to reject the plaintiff's objection related to the assessment in question.



With regard to the failure of the plaintiff or his representative to attend the hearing of the case despite being legally notified, based on Article 20 (1) of the Rules of Work of the Tax Committees, which stipulates that: "If the plaintiff fails to appear at any hearing that has been notified to him on the date set for its consideration and does not present an excuse acceptable to the Circuit, the case must be adjudicated if it is ripe for adjudication." Based on Article 56 of the Sharia Procedure Law, which stipulates that: "If the plaintiff does not attend the hearings of the case, as stipulated in Article (55) of this Law, the defendant may request the court to rule on the merits of the case, and the court shall rule if the case is fit for judgment, and its ruling shall be considered in the plaintiff's presence." Since the plaintiff did not present an excuse to justify his absence from the hearing of the Circuit convened to hear his case, and since the Circuit considered the case fit for decision based on what is available in its file, it concluded to issue its decision in the case in question in the plaintiff's presence.

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

Decision:

Plaintiff's objection is denied/..... (unique number...) On the decision of the defendant/Zakat, Tax and Customs Authority regarding the assessment at issue.

The date of depositing the decision in the electronic system of the General Secretariat of Zakat, Tax and Customs Committees shall be considered the date of receipt of the copy of the decision, and the parties to the lawsuit may request an appeal within (30) thirty days from the day following the date of receipt of the decision, so that it becomes final and enforceable after the expiration of this period if no objection is filed.

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.

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