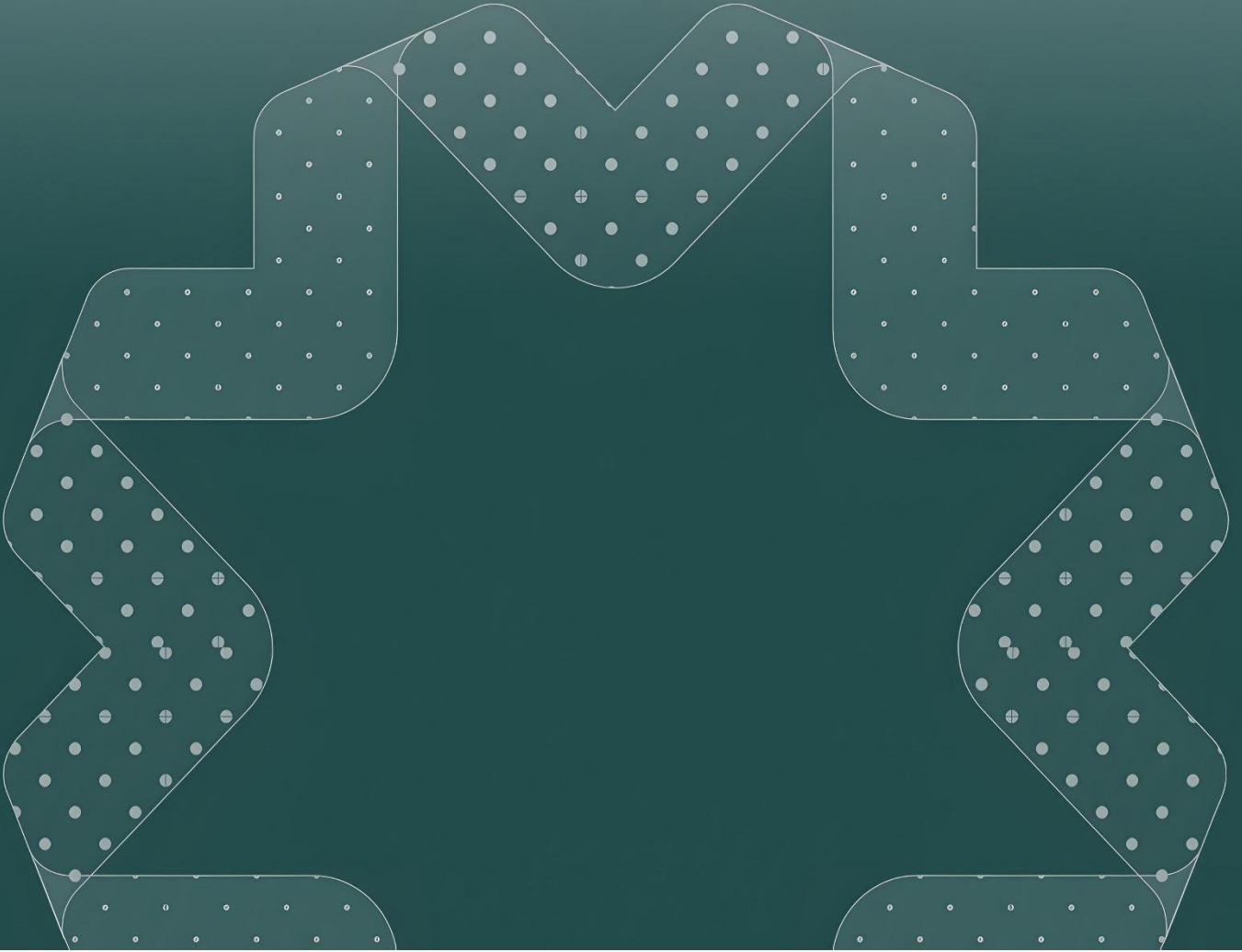




الأمانة العامة للجان الزكوية والضريبية والجمركية
General Secretariat of Zakat, Tax and Customs Committees

Tax Committee Decisions for 2023 Value-Added Tax





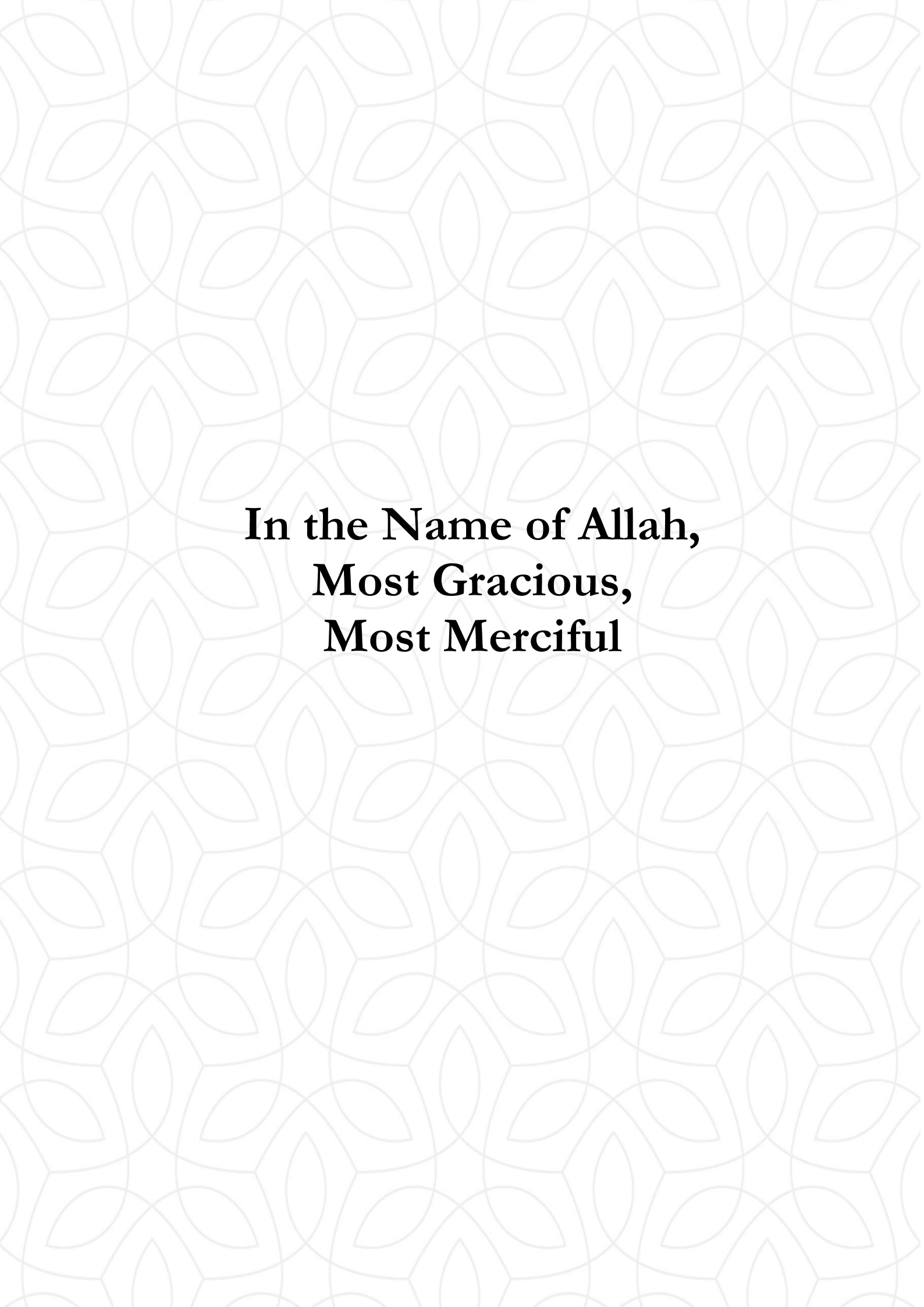
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**Tax Committee Decisions for
2023
Value-Added Tax**



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General Secretariat of Zakat, Tax and Customs Committees

Tax Committee Decisions for 2023 Value-Added Tax

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**In the Name of Allah,
Most Gracious,
Most Merciful**

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Introduction

Praise be to Allah, Lord of Worlds. May His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

It is no doubt that courts and judicial commissions efforts, rulings and decisions constitute an invaluable jurisprudential and judicial wealth that must be carefully preserved. In the context of commercial and industrial revolution that Kingdom of Saudi Arabia is experiencing under Saudi Vision 2030, various zakat and tax controversies have arisen, affecting many people. Therefore, and based on General Secretariat of Zakat, Tax and Customs Committees social responsibility, Secretariat has sought to create a solid foundation and reference for committee members, taxpayers and interested parties by publishing final decisions issued by tax committees in 2023. This contributes to effective settlement of zakat and tax disputes, and limits time taken for deciding upon cases. These records clarify decisions reached by committees, which would have a positive impact on shortening litigation period, saving efforts for case examiner, fulfilling principle of transparency pursued by General Secretariat, and introducing practical aspects to bodies concerned with legal research, particularly academic, training and other relevant bodies.

We ask Allah Almighty that this book be a sincere endeavor for the sake of Allah, to reward our efforts and guide us to goodness. He is indeed the most generous.



Message of His Excellency, Secretary General of Zakat, Tax and Customs Committees

Praise be to Allah almighty,

General Secretariat of Zakat, Tax and Customs Committees vision and values has been committed to excel in resolving zakat, tax and customs disputes, adopt innovative and effective approaches, enhance transparency and neutrality, develop cooperation between parties of zakat, tax and customs ecosystem, and play an effective role in raising efficiency of legal consideration. This is intended to enable zakat, tax and customs committees to successfully resolve disputes before them, and provide support and assistance to committees at all stages by conducting studies and research, as well as also helping zakat payers by clarifying laws, decisions and judicial precedents, and updating them periodically.

General Secretariat has attached special importance to final decisions issued by committees, being the final product of well-established judicial jurisprudence, and can be developed and updated to reflect changes. Recording such precedents help decide on similar disputes heard by judicial committees.

Knowing these decisions also eliminate disagreements and disputes and supports litigants position before committees. This effort includes the project of classification and categorization of final decisions issued by tax committees.

This priceless value of appellate decisions necessitated that they be assembled and published for public to achieve principle of transparency, consolidate existing efforts, and enrich scientific arena to be a fertile field for scholars, specialists and research centers.

Publication of these final decisions is a noble effort by General Secretariat, which comes in line with its mandate, and demonstrates its resolute commitment to promoting justice according to support and directives of our blessed leadership, with its unlimited support for the legislative and regulatory ecosystem.

In conclusion, I would like to extend my sincere gratitude to His Royal Highness Custodian of the Two Holy Mosques, King Salman bin Abdulaziz, and his Crown Prince, His Royal Highness Prince Mohammed bin Salman bin Abdulaziz, Prime Minister, may Allah protect them, for their generous patronage and support for judicial activities in various fields. I also extend my sincere recognition to employees of General Secretariat for their distinguished efforts in issuing this product, which I hope will achieve its goals and be a qualitative addition to the legal field.

Secretary General
Abdullah bin Abdulrahman Al-Suhaibani

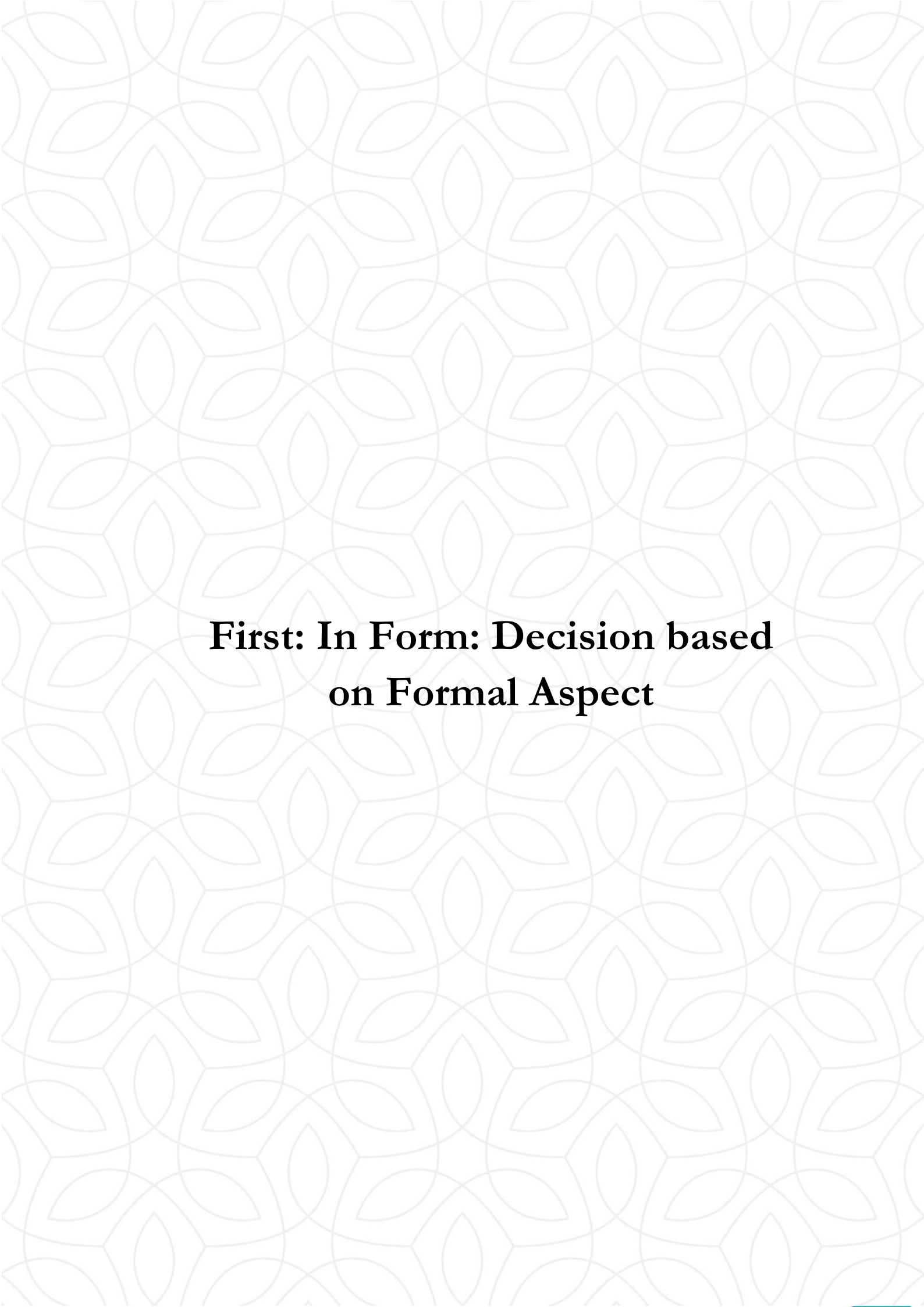


Work Methodology:

General Secretariat was keen to select and publish comprehensive judgments to achieve desired benefit. Given the importance of appropriate description of case before committees and its impact on inference and reaching the decision, which is the outcome sought by parties to lawsuit, and given the diverse facts and circumstances of tax and zakat cases, there has been a need to sort and classify committees decisions for easy reference for litigants and interested parties.

Based on General Secretariat of Zakat, Tax and Customs Committees role in adopting and applying principles of continuous improvement and development in management of zakat, tax and customs disputes, to enable conclusive settlement of these disputes, care and attention were given to classifying and publishing final decisions issued by Committees. Accordingly, was developed to come up with an easy and accessible product. Work was divided into several stages according to the following:

- Inventorying final decisions made by zakat, tax and customs committees in 2023 and those issued in late 2022 but were not included in 2022 decisions record.
- Setting keywords to facilitate search process.
- Developing Abstract of decision outlining key points.
- Listing evidence on which Department relied for delivering its judgment.
- Classifying decisions objectively as appropriate and placing each decisions under its relevant classification.
- Indicating name of Department delivering decision, decision number, case number, decision issue date, and assessment period.
- Ensuring anonymity of litigants and other involved parties without affecting decision.
- Checking decisions to ensure they are free from any linguistic and spelling errors.
- Decisions classification and indexing was based on Law, meaning that decisions were classified as per order of corresponding topic in within law.
- Excluding replicate decisions methodology was adopted, as replication criterion is when clauses of decisions, requests of parties and rulings are similar, even if parties are not the same.
- Adhering to exact text of decision including its facts, Grounds and operative part, without any addition or amendment except for spelling and grammatical errors.



**First: In Form: Decision based
on Formal Aspect**



Case

Determination Committee

First Department for Determination of Income Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1895)
Delivered in Case No. (V-70150-2021)

Key words:

Value Added Tax - Fine for Invalid Information in Declaration - Late Payment Fine - Dismissal of a Case for being Previously Decided - Res Judicata

Abstract

The Plaintiff instituted this case moving to cancel the decision of the Zakat, Tax and Customs Authority (ZATCA) regarding the fines imposed for providing invalid information in the tax return and late payment related to the tax period of January 2021 AD. The legal texts provide that a case that has been already judged cannot be raised again. Since the Department established that case No. (70155-2021-V) had been previously decided, therefore this Department ruled to dismiss the Plaintiff's case for being previously decided and this decision is final and enforceable pursuant to Article (42) of Tax Dispute and Violation Committee Procedures.

Instruments:

- Article (76.1) of [Law of Civil Procedures promulgated by Royal Decree No. \(M/1\) of 22/01/1435 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday, 13/09/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Decree No. (65474) dated 26/02/1444 AH.

The facts of this case are summarized as follows: Mr. ..., holder of National ID No., in his capacity as attorney for the Plaintiff, Commercial Registration No., filed an objection to the fines for providing invalid information in the tax return and late payment related to the tax period of January 2021 AD, issued by ZATCA. Having presented the statement of claims to the Defendant, it replied that it opposes those claims as on merits maintaining the validity of its decision based on Article (43) of the Value Added Tax Law and Paragraph (1) of Article (42).

On Tuesday, 13/09/2022 AD, a session was held remotely as per the Remote Litigation Procedures. For the Plaintiff appeared Mr....., holder of National ID No. (...), In his capacity as Attorney for the Plaintiff under POA No.; while for the Defendant appeared Mr..... National ID No..... in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated ... issued by the Deputy Governor for Legal Affairs. Having asked the Plaintiff's attorney if this dispute had been previously decided, he answered yes. Accordingly the Department decided to temporarily dismiss the parties from the remote session pending deliberation of the case and delivery of a decision.



Grounds



Having reviewed the relevant laws and regulations, and since the Plaintiff claims to cancel the Defendant's decision regarding the fines for providing invalid information in the tax return and for late payment related to the tax period for the month of January 2021 AD, it was found that these claims were heard in a previous case bearing no. (70155-2021-V) between the same parties and it was decided. Given that this case falls within the jurisdiction of this Department, and based on Article 76.1 of the Law of Civil Procedures, and since the subject of the case had previously been decided by Decision No. (70155-2021-V) between the same parties and regarding the same matter, this Department concludes to dismiss this case.

Based on the foregoing and in accordance with provisions of the Common VAT Agreement of GCC Countries, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, this Department unanimously decided to:

Decision:

Dismiss the case for being already judged in Case No. (70155-2021-V).

This decision was issued in the presence of both parties, and the Department set a period of thirty (30) days for the receipt of a copy of the decision. The Department may extend the deadline for additional thirty (30) days as it deems appropriate.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Case

Determination Committee

First Department for Determination of Income Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1906)
Delivered in Case No. (ZI-81990-2021)

Key words:

Value Added Tax - Late Payment Fine of Value Added Tax - dismissal of Case for Being Prematurely Filed.

Abstract

The Plaintiff instituted this case moving to cancel ZATCA's Decision regarding the fine for late payment of value-added tax. The legal texts provide that if the case is filed by a person with a capacity, and within the period prescribed by the Law, the case becomes acceptable in form. The Department found that the Plaintiff did not submit an objection to ZATCA, and was notified of the assessment decision on 01/11/2021 AD, and filed this case on 14/11/2021 AD, and accordingly this case is deemed to have been filed prematurely, and thus it is dismissible in form. This Department ruled to Dismiss the case in form for being filed prematurely, and the decision is final and enforceable.

Instruments:

- Article 2 of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday, 13/09/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Decree No. (65474) dated 23/12/1439 AH, convened to hear the case.

The facts of this case are as follows: Mr. ..., National ID No., in his capacity as owner of ... Contracting Establishment, C.R. No., filed an objection to the fine for late payment of value-added tax, issued by ZATCA, and on Tuesday 13/09/2022 AD, the session was held in accordance with the remote litigation procedures. The Defendant attended while the Plaintiff failed to attend despite being duly notified of the date of this session and method of holding it. The Defendant was represented by Mr..... National ID No..... in his capacity as ZATCA's Representative by Authorization Letter No. (....), Dated .././..... Issued by ZATCA's Governor for Legal Affairs Accordingly, the Department ordered that the parties be temporarily dismissed from the video session for deliberation before delivering its decision.

Grounds



Having reviewed the relevant laws and regulations; and since hearing this case is conditional upon filing an objection to ZATCA within sixty (60) days from the date of notification, and based on Article 2 of the Rules of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH; and since the case documents indicate that the Plaintiff did not submit an objection before ZATCA and was notified of the tax charged at the rate specified by the law on 1/11/2021 AD, and instituted this case before the Department on 06/02/2022 AD, and accordingly the case was filed prematurely. Therefore, the case shall be dismissed in form. Based on the above Grounds, and based on the Common VAT Agreement, VAT Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:

Decision:

- Dismiss the case in form.

This decision was issued in the presence of both parties, and the date of depositing the decision in the e-system of the General Secretariat of Zakat, Tax and Customs Committees is considered the date of delivery of the decision. The parties to the case may request to appeal against the decision as per the law within thirty (30) days from the day following the date specified for its receipt, whereafter, the decision will be final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Case

Determination Committee

First Department for Determination of Income Tax Violations and Disputes in Dammam

Decision No. (VD-2022-2064)
Delivered in Case No. (V-92903-2022)

Key words:

Value Added Tax - Final Re-assessment of Tax Period - Dismissal of case for prescription.

Abstract

The Plaintiff instituted this case moving to cancel the decision of ZATCA regarding the final re-assessment of the tax period related to the third quarter of 2020 AD, and the resulting fines. The legal texts provide that hearing such a case is conditional on submitting an objection to ZATCA within (60) days from the date of notification. According to the case documents, the Department established that the Plaintiff was notified of the assessment on 31/12/2020 AD, and filed this case on 02/03/2022 AD. Accordingly, this Department ruled to: Dismiss the case in form for expiration of the period prescribed by law for filing the case and this decision is final and enforceable pursuant to Article (42) of the Tax Dispute and Violation Committee Procedures.

Instruments:

- Article (3) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Sunday, 09/10/2022, The First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam formed under the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH as amended, and Royal Order No. 13957 of 26/02/1444 AH, convened to hear the case mentioned above.

The facts of this case are summed up in that Mr...., National ID No., in its capacity as the owner of establishment ..., Commercial Registration No., filed an objection to the final re-assessment of the tax period related to the third quarter of 2020, and the resulting fines, issued by ZATCA. Having presented the statement of claims to the Defendant, it entered a motion to dismiss the case in form for the Plaintiff not submitting the objection within the prescribed period. On Sunday, 09/10/2022 AD, a session was held as per the remote litigation procedures. For the Plaintiff appeared the Plaintiff in his own capacity, holder of ID No..... For the Defendant appeared Mr....., National ID No..... in his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated .../ 10/ 1444 AH, issued by ZATCA's Deputy Governor for Legal Affairs. Having asked the Plaintiff about the case, he maintained his statements contained in the statement of claims submitted to General Secretariat of Zakat, Tax and Customs Committees, and having asked the Defendant's Representative about his reply to Plaintiff claims, he maintained his answers contained in his Reply. When asked if either party wished to add anything further, both parties stated that they would rely on what has already been submitted.



As such, the Department decided to temporarily dismiss both parties from the remote session for deliberation and delivery of judgment. After deliberation, the Department decided as follows:

Grounds

Having reviewed the relevant laws and regulations; and since hearing this case is conditional upon filing an objection to ZATCA within sixty (60) days from the date of notification, and based on Article 3 of the Rules of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH; and since the case documents indicate that the Plaintiff was notified of the assessment on 02/03/2022 AD and filed this case on 02/03/2022 AD, therefore, this case is initiated after ZATCA's decision subject matter of this case became final and appealable, and hence this case shall be dismissed in form.

Based on the foregoing and in accordance with the provisions of Common Agreement, the Value Added Tax Law and its Implementing Regulations, and Rules of Tax Dispute and Violation Committee Procedures, the Chamber, after deliberation, unanimously decided.

Decision:

- Dismiss the case in form.

This decision was issued in the presence of both parties, and the date of depositing the decision in the e-system of the General Secretariat of Zakat, Tax and Customs Committees is considered the date of delivery of the decision. The parties to the case may request to appeal against the decision as per the law within thirty (30) days from the day following the date specified for its receipt, whereafter, the decision will be final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Case

Determination Committee

The First Department for Determination of Income
Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1813)
Delivered in Case No. (V-
98735-2022)

Key words:

Value Added Tax - Final assessment - The Plaintiff did not Provide Evidence for Objecting to ZATCA's Decision - Case File does not Contain an Objection Rejection Notice - Dismissal of Case in form for not Submitting an Objection to the Defendant.

Abstract

The Plaintiff instituted this case moving to cancel the decision of ZATCA regarding his objection to the final assessment related to the fourth quarter of 2018 and the resulting fines. The legal texts provide that the Plaintiff must submit his objection to the Defendant within the prescribed period from the date of notification - The Department found that the Plaintiff did not provide evidence of his objection to ZATCA's decision, and the case file does not contain an objection rejection notice from the Defendant. Accordingly, This Department ruled to Dismiss the case in form due to failure to submit an objection to the Defendant within the period prescribed by law and the decision is final and enforceable.

Instruments:

- Articles 2 and 3 of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday, 23/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (65472) dated 23/12/1439 AH convened to hear the above case. Given the case has fulfilled its prescribed legal requirements, it was filed with the General Secretariat on 20/03/2021 AD.

The facts of this case are summed up in that Mr. ..., National ID No. Filed, in his capacity as the owner of establishment, C.R. No....., a statement of claims that included his objection to the final assessment related to the fourth quarter of 2018 and the resulting fines.

On Tuesday, 23/08/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held a session remotely in accordance with the remote litigation procedures set forth in Article (15.2) of Rules of Tax Dispute Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. Upon calling litigants appeared Mr....., a Saudi National, holder of National ID No. in his capacity as the Plaintiff, while for the Defendant appeared Mr....., a Saudi National, holder of National ID No. as ZATCA's representative by virtue of Authorization No..... Dated .././..... issued by the Deputy Governor for Legal Affairs. Having asked the Plaintiff about his claims, he provided the same statements



included in his statement of claims filed with the General Secretariat of the Zakat, Tax and Customs Committees pleading the force majeure circumstances during COVID-19 pandemic. When asking both litigants if they had any other statements, they decided that they are satisfied with their earlier submissions. Accordingly, the Department decided to adjourn session for deliberation before issuing decision.

Grounds

After reviewing the Case documents, and upon thorough examination, and in light of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/06/1425 AH as amended, Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH as amended and its Implementing Regulations issued by the decision of the Authority's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Having examined the case file, it was found that the Plaintiff filed his case via the e-portal on 20/03/2022 AD, and where the Defendant argued that the case was not accepted in form due to the Plaintiff not submitting his objection to ZATCA's decision as per Article 2 of the Tax Dispute and Violation Committee Procedures, which provides that: "Any person against whom a decision has been issued by GAZT may file an objection before it within 60 days from the date of notification thereof. GAZT shall decide on the objection within 90 days from the date of filing. If a decision is made to deny the objection or a period of 90 days lapses without deciding thereon, a taxpayer may, within 30 days from the date of being notified of the denial of the objection or upon the lapse of 90 days without a decision thereon, take any of the following actions: 1. Request the referral of the objection to the internal committee for settlement. If a taxpayer rejects the internal committee's decision or if the period specified in the Settlement Procedures lapses without reaching a settlement, the taxpayer may file a case before the dispute committee against GAZT's decision within 30 days from the date of being notified of the internal committee's decision or upon the lapse of the period specified in the Settlement Procedures without reaching a settlement. Such case shall not include issues settled with the internal committee. 2. File a lawsuit directly before the dispute committee". Article 3 of Tax Dispute and Violation Committee Procedures has also stated the following: "ZATCA decisions shall be final and not disputed before any other agency in the following cases: 1. If a taxpayer does not object to the decision within 60 days from the date of notification thereof. 2. If a taxpayer does not file a case before the dispute committee or does not request referral of the objection to the internal committee for settlement within 30 days from the date of notification of GAZT's decision denying said objection or upon the lapse of 90 days from the date of its filing without being decided. 3. If a taxpayer fails to file a lawsuit before the dispute committee within 30 days from the date of being notified of the internal committee's settlement decision or from the lapse of the period specified in the Settlement Procedures without reaching a settlement. Since the Plaintiff did not provide evidence of his objection to ZATCA's decision as per Tax Dispute and Violation Committee Procedures; and given that the case file doesn't include the objection rejection notice sent by the Defendant, this Department deems that the Defendant's plea for dismissal of case in form is admissible. In light of the foregoing and based on the provisions of the Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, this Department, after due deliberations, unanimously decided as follows:

Decision:

- Dismiss the case in form for failing to submit the objection filed with the Defendant according to Articles 2&3 of Tax Dispute and Violation Committee Procedures.



This decision was issued in the presence of both litigants. The Department has set a period of (30) days for the receipt of a copy of the judgment, and the Department may extend the delivery period for another (30) days as it deems appropriate. The parties to the Case may appeal the decision within thirty (30) days from the day following the date set for receipt. If no objection is filed, the decision becomes final and enforceable upon expiration of this period.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Case

Determination Committee

First Department for Determination of Income Tax
Violations and Disputes in Riyadh

Decision No. (VR-2022-1377)
Delivered in Case No. (V-
87017-2021)

Key words:

Value Added Tax - Penalty for Late Submission of Tax Return - Dismissal of Case in Form for Lack of Capacity of Defendant.

Abstract

The Plaintiff instituted this case moving to cancel the decision of ZATCA regarding the imposition of a fine for late submission of tax return. The legal texts provide that the motion of dismissal of a case for lack of capacity or interest or any other reason may be entered at any stage of litigation and the court shall decide upon it on its own initiative. The Department established the Defendant has no capacity under this case. Accordingly, this Department ruled to: This Department ruled to Dismiss the case in form due to the lack of capacity of the Defendant and this decision is final and enforceable.

Instruments:

- Article (76.1) of [the Law of Civil Procedures promulgated by Royal Decree No. \(M/1\) of 22/01/1435 AH](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Tuesday, 13/09/2022 AD, the Department established under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended and constituted under Royal Order No. (65474) of 23/02/1439 AH and reconstituted under Royal Order No. (19575) of 09/04/1442 AH, convened to hear the above case.

The facts of this case are summed up in that Mr....., National ID No., submitted a request to the Defendant to cancel the fine for late filing the tax return, and upon presenting the statement of claim to the Defendant, it argued that the case is inadmissible in form, because it was filed against a person who has no capacity under the case.

On Tuesday, 13/09/2022 AD, the Department held its first session via video conference to consider the case filed by Mr....., holder of National ID No. (...), against ZATCA. Upon calling both litigants, Plaintiff attended personally, and Mr....., holder of National ID No. (...), attended in his capacity as ZATCA representative by virtue of authorization No. (.....) issued by ZATCA. After verifying attendance of both litigants, displaying their national ID cards using a magnifying window, and verifying their capacity, the Department decided to proceed with case consideration. Having asked ZATCA about the Plaintiff's claims, it requested that the case be dismissed in form for being filed against a person with no capacity. When asking the parties if they had anything else to add, they they stated that they had nothing else to add beyond what had



already been submitted. Whereas the matter was mentioned, and after discussion, the Department decided to close the pleading and adjourn the session for deliberation and issuance of a decision.

Grounds



Having reviewed the relevant law and regulations, and since one of the primary matters that the court decides before proceeding to the subject matter of the case is to verify the capacity of the parties to the case, which the Department decides on its own motion according to Article 76.1 of the Law of Civil Procedures, which provides that: “A motion for lack of jurisdiction; type or value of the suit; dismissal of the suit for lack of capacity, interest or any other ground; or if the suit has been previously decided, shall be admissible at any stage of the hearing and shall be decided by the court on its own motion”, and since the Plaintiff requested that the fine for late submission of the tax return resulting from the sale of the taxable property, and since the Defendant has no capacity in the case filed by the Plaintiff given that the Plaintiff requests to cancel the fine for late submission of the tax return due to sale of a property and that tax is payable by the buyer, therefore, this case should have been filed against the person who bears the burden of paying the tax. Accordingly, this Department determined that the Defendant has no capacity as to the subject matter of this case.

Decision:

First: In Form: Dismiss the case in form.

This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days as it deems appropriate. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. The decision shall become final and enforceable after expiration hereof.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under Article (42) of Tax Dispute and Violation Committee Procedures).



Case

Determination Committee

First Department for Determination of Income Tax Violations and Disputes in Riyadh

Decision No. (VR-2022-1599)
Delivered in Case No. (V-160977-2022)

Key words:

Value Added Tax - Reassessment of Tax Period - Fine for Invalid Information in Tax Return - Late Payment Fine - Dismissal of Case for Failure to Initially Submit Objection to Defendant.

Abstract

The Plaintiff instituted this case moving to cancel ZATCA's decision regarding his objection to the reassessment of the second quarter of 2019, and imposition of a VAT in the amount of SAR 14,605.23, in addition to a fine of SAR 8,390.81 for providing invalid information in the tax return in the amount, and a late payment fine in the amount of SAR 34,633.93. The legal texts provide that the Plaintiff must submit his objection initially to the Defendant within the prescribed period. This Department ruled to Dismiss the case for being filed after the period prescribed by law and the decision is final and enforceable.

Instruments:

- Article (2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday 19/12/2023 AD, the Department formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (13957) of 26/02/1444 AH, convened to hear the above case.

The facts of this case are as follows: Mr. ..., National ID No., in his capacity as owner of ... Medical Establishment, as per Commercial Registration No. submitted an objection to the reassessment of the second quarter of 2019 and the imposition of a VAT in the amount of SAR 14,605.23, and the imposition of a fine for providing invalid information in the tax return in the amount of SAR 8,390.81, and a fine for late payment in the amount of SAR 34,633.93.

On Monday, 19/12/2022, The Department held its first session remotely via videos conference as per 15.2 of the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated

21/04/1441 AH. Having called the parties to the case, the Plaintiff's attorney, National ID No., representing the Plaintiff under Power of Attorney No. declared his appearance. Ms., a Saudi national, holder of ID No. also



Declared her appearance as the Defendant's representative under Authorization No.....issued by the Deputy Governor for Legal Affairs. After verifying the Identities and due representation of the parties through a magnifying window, the Department decided to proceed with the case. The Plaintiff's attorney requested that ZATCA's decision regarding the re-assessment of the second quarter of 2019 and the imposition of a VAT in the amount of SAR 14,605.23, and a fine for invalid information in the tax return in the amount of SAR 8,390.81, and a late payment fine in the amount of SAR 34,633.93. Having asked the Defendant's representative about her response to the Plaintiff's claims? She entered a defense of dismissing the case for prescription of the period set for filing the case according to Article (49) of the Value Added Tax Law, arguing that the Plaintiff was notified of the final assessment 23/11/2020, and she filed her case on 10/11/2022. When the two parties asked if they had anything to add? They answered no and that they were satisfied with what has been previously submitted. Whereas the matter was mentioned, and after discussion, the Department decided to close the pleading and adjourn the session for deliberation and issuance of a decision.

Grounds

Having reviewed the relevant laws and regulations, and since the hearing of such a case is conditional on filing an objection before ZATCA within (60) days from the date of notification and based on Article (2) of the Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH, and given that the case papers indicate that the Plaintiff filed his case on 10/11/2022 AD, and did not file an objection with the Defendant against its decision, accordingly, it is concluded that the Plaintiff has no right to filing this case for expiration of the period set by law for objection.

The Department unanimously decided:

Decision:

- Dismiss the case in form.

This decision was issued in presence of both parties. The Department set thirty (30) days from date for receiving copy of decision, and it may extend delivery date for another (30) days as it deems appropriate. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt, whereafter, this decision shall become final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Case

Determination Committee

Third Department for Determination of Income Tax Violations and Disputes in Riyadh

Decision No. (VTR-2022-1510)
Delivered in Case No. (V-64519-2021)

Key words:

Value Added Tax - Fines - Dismissal of Case in Form due to Failure to Serve Notice of Action.

Abstract

The Plaintiff Zakat, Tax and Customs Authority (ZATCA) instituted this case moving to oblige the Defendant to pay the VAT and fines for the period of the fourth quarter of 2019, the third and fourth quarters of 2020, and the first quarter of 2021. The legal texts provide that the legal procedures for notifying the tax must be followed as set forth in the State Revenue Law and its Implementing Regulations. It was found that the Plaintiff sent three notices, then having reviewed the notices, the Department found that they did not include a claim for paying the tax or the amount or date of payment. This Department ruled to Dismiss case in form for invalidity of notification and the decision is final and enforceable.

Instruments:

- Articles (13), (14) and (46) of [the Implementing Regulations of the State Revenue Law promulgated by Royal Decree No. \(M/68\) dated 18/11/1431 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 05/09/2022 AD, the Department formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (17218) of 27/03/1442 AH, convened to hear the above case.

The facts of this case are summed up in that the Plaintiff ZATCA filed a statement of claim, whereby it requested that the Defendant, ...Company, C.R.....pays the VAT and fines for the period of the fourth quarter of 2019, the third and fourth quarters of 2020, and the first quarter of 2021, in the amount of SAR 2,077,637.88.

Having presented the statement of claims to the Defendant, it did not provide any response. The Plaintiff then submitted an additional memorandum that specified its claim for an amount of SAR 654,653.40.

On Monday 05/09/2022, the Department held its session remotely to consider the case. Having called the parties to the case, the Plaintiff's representative Mr....., a Saudi national, holder of National ID No. declared his appearance as the representative of the Plaintiff ZATCA under authorization letter No. Dated .././..... issued by the Deputy Governor for Legal Affairs, while neither the Defendant nor its representative appear despite being duly notified of the session. Having asked the Plaintiff's representative about his case, he provided answers corresponding to his claims stated in his statement of claims filed with the General Secretariat of the Tax Committees



indicating that he had an additional memorandum that he would like to submit. Accordingly, the Department decided to adjourn the session for deliberation before delivering its decision.

Grounds



Having reviewed the relevant laws and regulations, and since the Plaintiff instituted the case to oblige the Defendant to pay the VAT and late payment fines for the periods of the fourth quarter of 2019, the third and fourth quarters of 2020, and the first quarter of 2021, which total SAR 654,653.40; the Department determined that before deciding upon the Plaintiff's requests, it should verify whether the Plaintiff has followed the regulatory procedures stipulated in Article 13 of the State Revenue Law promulgated by Royal Decree No. (M/68) dated 18/11/1431 AH and Articles 14 and 46 of the Implementing Regulations of the same Law, and since it was found that the Plaintiff had served three notices on 14/10/2019, 22/12/2020, and 02/05/2021, and by reviewing those notices, they were found to be void of any indication that the payment must be made in 30 days nor did they include the amount or date of payment. This means that the Plaintiff did not follow the legal procedures for notification of payment as stipulated in the State Revenue Law and its Implementing Regulations, and accordingly the Department concludes that the case is not accepted in form due to the invalidity of notification.

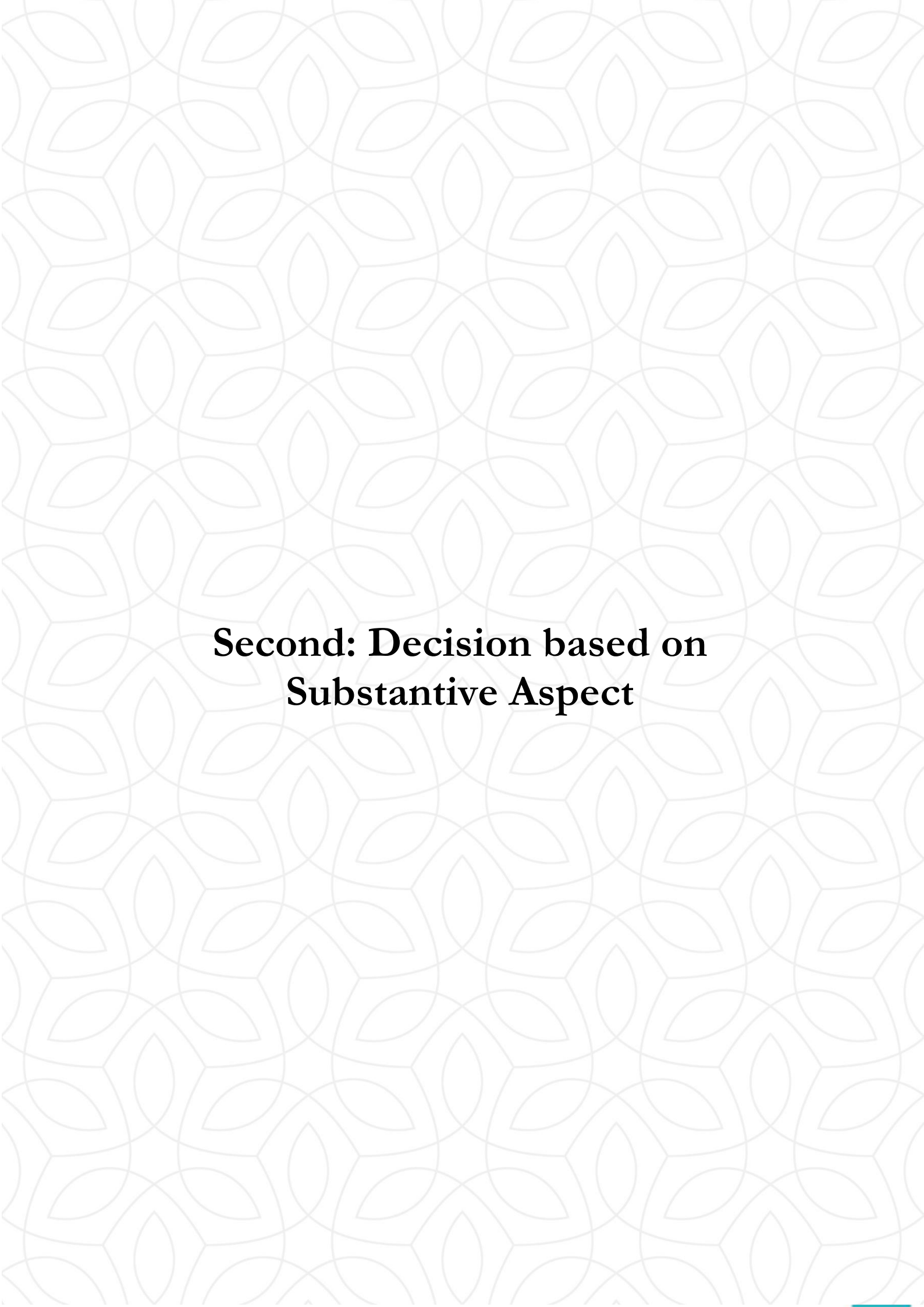
Decision:

- Dismiss the case in form due to the invalidity of the notification.

This decision was issued in presence of both parties as per Article 21 of Tax Dispute and Violation Committee Procedures. The date of entry of the decision into the e-system of General Secretariat of the Zakat, Tax, and Customs Committees shall be considered the date of service of the decision. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt, whereafter, the decision shall become final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).

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Second: Decision based on Substantive Aspect



Appeal

Appellate Committee:

First Appellate Department for Income Tax and Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-451)
Issued in Appeal No. (V-72415-2021)

Key words:

Value Added Tax - Re-assessment - Charitable Purchases - Contract Notarization - Water Expenses - Supplies Subject to the Basic Rate of Tax - Contract Notarization Fees - Misdeclaration Penalty - Late Payment Penalty - End of Dispute Between the Parties to the Case

Abstract

The Appellant claims to overturn the Primary Department's decision No. (351-2021-VR) in the case filed by Department against ZATCA. The Primary Department's decision dismissed the Plaintiff's claim to overturn ZATCA's decision to reassess the month of October 2018 and impose an additional VAT of SAR 850,436.29, excluding the contract notarization item. The Primary Department ordered ZATCA to reassess the VAT after deducting the contract notarization item. The Department also ruled to cancel the misdeclaration penalty in the amount of SAR 23,429.07 and the late payment penalty in the amount of SAR 128,859.92 imposed by ZATCA. ZATCA responded as follows: Regarding "charitable purchases", the Appellee argues that purchases related to the Plaintiff's charitable activity have been deducted. Regarding "water expenses", the Appellee argues that receiving any fees in exchange for a specific service is considered a supply subject to the basic tax rate. The Appellate Department established that regarding the objection to the sales and purchases items, and regarding the appeal filed by ZATCA to overturn the Primary Decision regarding the contract notarization fees item, and given that it has been established that the appealed decision was consistent with the law and was based on sound Grounds, where the primary department has duly examined the dispute to reach the conclusion stated in the operative part. The Appellate Department did not find any observation and had no comment over the primary decision in light of the argument raised before this department. Accordingly, this department concludes to uphold the primary decision in respect of these items. As for the Appellant's objection to the misdeclaration and late payment fines, ZATCA confirmed in its response letter to the Appellant before the First Department that the fines were completely cancelled. Therefore, the Appellate Department rules that the dispute between the two parties regarding this item has been settled. Accordingly, this Department concludes to: Accept the appeals in form, and on merits to: End dispute regarding the misdeclaration penalty and late payment penalty, and dismiss the two appeals in all other aspects.

Instruments:

- Articles (15/2) and (40/2) of [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.



On Monday 01/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed under Royal Decree No. (65474) dated 23/12/1439 AH, in accordance with Article 67.5 of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended under Royal Decree No. (M/113) dated 02/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 27/09/2021 AD, by....., National ID As the Managing Director of... C.R. No. Against n the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam (VD-2021-351) in the case filed by Department Against ZATCA.

The Department also convened to consider the appeal filed on 09/09/2021 AD by ZATCA against the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam No. (VD-2021-351) in the case filed by Department Against ZATCA.

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:

First: In Form: In form:

Accept Plaintiff's case in form.

Second: On merits:

- Dismiss claim of the Plaintiff..... Department, C.R. No. To cancel ZATCA's decision to reassess the tax for October 2018 and impose an additional VAT of SAR 850,436.29, excluding the contract notarization item.
- Uphold the primary decision for canceling the misdeclaration penalty of SAR 23,429.07 and the late payment penalty of SAR 128,859.92.

As this decision was not accepted by either party, the Appellant, ... Department filed to the Appellate Department a statement of appeal, whereby it objected to the Department's decision to dismiss its claim regarding the final assessment for the tax period relating to October 2018 (sales and purchases) item and the resulting fines. The Appellant requested that the Primary Department's decision be overturned and that the charitable purchases it had approved be deducted, in addition to deducting water expenses, as they are collected to cover the tenant's water consumption. The petition concluded with a request to accept the appeal and overturn the committee's decision.

When the Appellant's petition (the Department of...) was presented to the Appellee (ZATCA), it responded, summarized as follows: "Regarding charitable purchases, the Appellee argues that purchases related to the Plaintiff's charitable activity have been deducted. Regarding water expenses, the Appellee argues that receiving any amount in exchange for performing a specific service is considered a supply subject to the basic tax rate."

The Appellant, the Zakat, Tax and Customs Authority, in its capacity as the Defendant, submitted an appeal to the Appellate Department, which included its objection to the Department's decision regarding the contract notarization fees item. The appeal requested that the item be subject to the basic rate of VAT, given that the Appellee (.....Department) acknowledged providing a service to its clients. The appeal concluded by requesting that the appeal be accepted and the Primary Department's decision be amended.

When the statement of appeal of the Appellant ZATCA was presented to the Appellee (.....Department), the Appellee responded as follows: the Appellee responded as follows: "These amounts are collected and paid through the Ejar website upon registration and contract notarization, and they are in no way considered revenue of the facility."

On Wednesday 09/11/1443 AH, corresponding to 08/06/2022 AD, First Appellate Department for Value Added and Excise Goods Tax Violations and Disputes held a session to consider the appeal submitted via video conference, based on Paragraph (15.2) of Tax Dispute and Violation Committee Procedures, which stipulates that: "Chamber sessions may be held via modern technical means provided by General Secretariat." The Case file, all memoranda, documents, and



Primary Department's decision under appeal were reviewed. Upon calling the parties, for the Plaintiff appeared, a Saudi National, holder of National ID No. under POA No. (...) in his capacity as the representative of the Waqf Supervisor. For the Defendant appeared Mr....., a Saudi National, National ID No. In his capacity as ZATCA's Representative by Authorization Letter No. (....), dated 17/08/1442 AH, issued by the Deputy Governor for Legal Affairs. At the beginning of the session, due to the inability to verify the capacity of the Waqf Supervisor's representative, and after study and deliberation, the Department after discussion and deliberation unanimously decided to adjourn the session to a later session due to inability to verify the proper representation of the Appellee (original Plaintiff) at the session.

On Monday 28/11/1443 AH, corresponding to 12/09/2022 AD, First Appeals Chamber for Tax Violations and Disputes Value Added and Excise Goodsheld a session to consider appeal submitted via video conference, based on Article 15.2 of Tax Dispute and Violation Committee Procedures, which stipulates that: "Chamber sessions may be held via modern technical means provided by General Secretariat." The Case file, all memoranda, documents, and Primary Department's decision under appeal were reviewed. Upon calling the parties, for the Plaintiff appeared, a Saudi National, holder of National ID No. under POA No. (...) in his capacity as the representative of the Waqf Supervisor. For the Defendant appeared Mr....., a Saudi National, National ID No. in his capacity as ZATCA's Representative by Authorization Letter No. (....), dated.../08/1442 AH, issued by the Deputy Governor for Legal Affairs. At the beginning of the session, when both parties were asked what they would like to add, they responded by stating that they were satisfied with what had been previously submitted. The Taxpayer's representative also confirmed that charitable purchases are part of the entity's business activities. After discussion between the two parties, they requested a period to submit further memoranda regarding this case. Accordingly, the Department decided to adjourn the case to a later session.

On Tuesday 26/12/1443 AH corresponding to 25/07/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Chamber sessions may be held via modern technical means provided by General Secretariat." The Case file, all memoranda, documents, and Primary Department's decision under appeal were reviewed. Upon calling the parties, for the Plaintiff appeared, a Saudi National, holder of National ID No. under POA No. (...) in his capacity as the representative of the Waqf Supervisor. For the Defendant appeared Mr....., (Saudi National, under National ID No. (...)) In his capacity as ZATCA's Representative by Authorization Letter No. (....), dated .../08/1442 AH, issued by the Deputy Governor for Legal Affairs, at the beginning of the session, when both parties were asked what they would like to add, they replied that they were satisfied with their earlier submissions. Accordingly, the Department decided to postpone consideration of the case for further study and consideration.

On Monday 03/01/1444 AH corresponding to 01/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appeals Chamber may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appeals Chamber decision subject of appeal have been reviewed. After discussion and deliberation, the Chamber decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Rules of Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.



Whereas, appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its regulatory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On merits, after the Appellate Department reviewed case documents, examined the contents of the records and evidence, and reviewed the memoranda and responses submitted by both parties, it found that the decision issued by the Primary Department ruled to dismiss the claim filed by the Appellant (..... Department) Regarding the cancellation of the decision of the Appellee (ZATCA) regarding the final assessment for the tax period relating to October 2018 (sales and purchases) and the resulting fines, and regarding the objection to the sales and purchases items, since it was established that the appealed decision regarding the dispute in question was consistent with the law and was based on valid Grounds, where the primary department duly examined the dispute and reached the conclusion it reached in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision. Based on the foregoing, the Department concluded to dismiss the appeal filed by Department and uphold the Primary Decision with regard to its conclusions based on the Grounds stated therein.

Regarding the Appellant's objection to the misdeclaration and late payment fines, and since ZATCA confirmed in its response letter to the Appellant's claims before the First Department that the fines were completely cancelled. Accordingly, the Appellate Department therefore concludes that the dispute between the two parties to the case has ended.

Regarding the appeal filed by ZATCA requesting the annulment of the Primary Department's decision regarding the contract notarization fees item, the appellant requested to subject the item to the basic VAT, given that the Appellee (.....Department) acknowledged providing a service to its clients. It was also established that the appealed decision regarding the dispute under consideration was consistent with the law and was based on sound Grounds, where the primary department examined the dispute reaching its conclusion as stated in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision Based on the foregoing, this Department concludes to dismiss the appeal filed by ZATCA and uphold the Primary Department's decision based on the Grounds stated therein.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: With regard to the Appeal filed by Department,

1. accept Appeal in form.
2. Dismiss the appeal of Department, C.R. No. regarding local purchases subject to the basic tax rate, and uphold the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No.(351-2021-VR).
3. Dismiss the appeal of the Department, C.R. No. related to "Water Expenses", and uphold the First Department to adjudicate Value Added Tax Violations and Disputes in Riyadh No (351-2021-VR).
4. Dismiss the appeal of the Department, C.R. No. Regarding local sales subject to the basic tax rate, and uphold the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh (351-2021-VR).
5. End dispute regarding the Misdeclaration Penalty.
6. End dispute regarding the Late Payment Penalty.

Second: With regard to ZATCA Appeal:

1. accept Appeal in form.



2. Dismiss ZATCA's appeal regarding contract notarization fees and uphold the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh (351-2021-VR).

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee:

First Appellate Department for Income Tax and Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-457)
Issued in Appeal No. (V-72431-2021)

Key words:

Value Added Tax - Re-assessment - Charitable Purchases - Contract Notarization - Water Expenses - Supplies Subject to the Basic Rate of Tax - Contract Notarization Fees - Misdeclaration Penalty - Late Payment Penalty - End of Dispute Between the Parties to the Case

Abstract

The Appellant requested to consider the decision of the First Department for the Resolution of Value Added Tax dismissing the claim of Appellant (.....Department) regarding the cancellation of the decision of the Appellee (ZATCA) regarding the final assessment for the tax period relating to April 2019 (sales and purchases) and the resulting penalties. And the appeal filed by ZATCA against the First Department's decision in the case filed by Department against ZATCA. ZATCA responded regarding charitable purchases that purchases related to the Plaintiff's charitable activity were deducted. Regarding water expenses, the Appellee argues that receiving any amount in exchange for a specific service constitutes a supply subject to the basic tax rate. The Appellate Department found, regarding the objection to the sales and purchases items, and regarding the appeal filed by ZATCA to annul the Primary Department's decision regarding the contract notarization fees item, that the decision is consistent with the law and was based on valid Grounds, where the primary department duly examined the dispute to reach the conclusion it reached in its operative part. The Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision. Regarding the Appellant's objection to the misdeclaration and late payment penalties, ZATCA confirmed in its response letter to the Appellant before the First Department that the fines were completely cancelled. Accordingly, the Appeals Department concludes that the dispute between the two parties has been resolved. This Department ruled to Accept the appeals in form, and on merits to: End dispute regarding the misdeclaration penalty and late payment penalty, and dismiss the two appeals in all other aspects.

Instruments:

- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday 01/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed under Royal Decree No. (65474) dated 23/12/1439 AH, in accordance with Article 67.5 of Income Tax Law, promulgated under Royal Decree No. (M/1)



dated 15/01/1425 AH, as amended under Royal Decree No. (M/113) dated 02/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 27/09/2021 AD, by....., National ID No..... As the Managing Director of... C.R. No. Against n the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam (VD-2021-357) in the case filed by Department Against ZATCA.

The Department also convened to consider the appeal filed on 09/09/2021 AD by ZATCA against the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam No. (VD-2021-357) in the case filed by Department Against ZATCA.

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:

First: In Form: In form:

Accept Plaintiff's case in form.

Second: On merits:

Dismiss objection of the Plaintiff..... Department, C.R. No. To cancel ZATCA's decision to reassess the tax for October 2018 and impose an additional VAT of SAR 432,163.47, excluding the contract notarization item, and order that ZATCA recalculates the VAT after deducting the contract notarization item.

Uphold the cancellation of the misdeclaration penalty of SAR 48,899.59 and the late-payment penalty of SAR 97,799.18 by ZATCA.

As this decision was not accepted by either party, the Appellant, ... Department submitted a statement of appeal to the Appellate Department, which included his objection to the Department's decision to dismiss his case regarding the final assessment for the tax period related to April 2019 (sales and purchases items) and the resulting fines. The Appellant requested that the Primary Department's decision be reversed and the charitable purchases declared be deducted, in addition to deducting water expenses, as they are collected to cover the tenant's water consumption. The petition concluded with a request to accept the appeal and overturn the Department's decision.

Having presented the Appellant's statement to the Appellee (ZATCA), the Appellee responded as follows: "Regarding charitable purchases, the Appellee argues that purchases related to the Plaintiff's charitable activity have been deducted. Regarding water expenses, the Appellee argues that receiving any amount in exchange for performing a specific service is considered a supply subject to the basic tax rate."

The Appellant, the Zakat, Tax and Customs Authority, in its capacity as the Defendant, submitted an appeal to the Appellate Department, which included its objection to the Department's decision regarding the contract notarization fees item. The appeal requested that the item be subject to the basic rate of VAT, given that the Appellee (.....Department) acknowledged providing a service to its clients. The appeal concluded by requesting that the appeal be accepted and the Primary Department's decision be amended.

When the statement of appeal of the Appellant ZATCA was presented to the Appellee (.....Department), the Appellee responded as follows: the Appellee responded as follows: "These amounts are collected and paid through the Ejar website upon registration and contract notarization. They do not, under any circumstances, constitute revenue for the facility."

On Wednesday 09/11/1443 AH, corresponding to 08/06/2022 AD, First Appellate Department for Value Added and Excise Goods Tax Violations and Disputes held a session to consider the appeal submitted via video conference, based on Paragraph (15.2) of Tax Dispute and Violation Committee Procedures, which stipulates that: "Chamber sessions may be held via modern technical means provided by General Secretariat." The Case file, all memoranda, documents, and Primary Department's decision under appeal were reviewed. Upon calling the parties, for the Plaintiff appeared, a Saudi National, holder of National ID No. under POA No. (...) in



his capacity as the representative of the Waqf Supervisor. For the Defendant appeared Mr....., (Saudi National, under National ID No. (...)) In his capacity as ZATCA's Representative by Authorization Letter No. (...), Dated .././..... /08/1442 AH, issued by the Deputy Governor for Legal Affairs. At the beginning of the session, due to the inability to verify due representation of the waqf supervisor, after study and deliberation, the Department unanimously decided: to adjourn the session to a later session due to inability to verify the proper representation of the Appellee (original Plaintiff) at the session.

On Tuesday 28/11/1443 AH corresponding to 27/06/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Chamber sessions may be held via modern technical means provided by General Secretariat." The Case file, all memoranda, documents, and Primary Department's decision under appeal were reviewed. Upon calling the parties, for the Plaintiff appeared, a Saudi National, holder of National ID No. under POA No. (...) in his capacity as the representative of the Waqf Supervisor. For the Defendant appeared Mr....., (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (...), Dated .././..... dated.../08/1442 AH, issued by the Deputy Governor for Legal Affairs. At the beginning of the session, when both parties were asked what they would like to add, they responded by stating that they were satisfied with what had been previously submitted. The Taxpayer's representative also confirmed that charitable purchases are part of the entity's business activities. After discussion between the two parties, they requested a period to submit further memoranda regarding this case. Accordingly, the Department decided to adjourn the case to a later session.

On Tuesday 26/12/1443 AH corresponding to 25/07/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Chamber sessions may be held via modern technical means provided by General Secretariat." The Case file, all memoranda, documents, and Primary Department's decision under appeal were reviewed. Upon calling the parties, for the Plaintiff appeared, a Saudi National, holder of National ID No. under POA No. (...) in his capacity as the representative of the Waqf Supervisor. For the Defendant appeared Mr....., (Saudi National, under National ID No. (...)) In his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .../08/1442 AH, issued by the Deputy Governor for Legal Affairs, at the beginning of the session, when both parties were asked what they would like to add, they replied that they were satisfied with their earlier submissions. Accordingly, the Department decided to postpone consideration of the case for further study and consideration.

On Monday 03/01/1444 AH corresponding to 01/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appeals Chamber may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appeals Chamber decision subject of appeal have been reviewed. After discussion and deliberation, the Chamber decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Rules of Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax



Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On merits, after the Appellate Department reviewed case documents, examined the contents of the records and evidence, and reviewed the memoranda and responses submitted by both parties, it found that the decision issued by the Primary Department ruled to dismiss the claim filed by the Appellant (..... Department) Regarding the cancellation of the decision of the Appellee (ZATCA) regarding the final assessment for the tax period relating to April 2019 (sales and purchases) and the resulting fines, and regarding the objection to the sales and purchases items, since it was established that the appealed decision regarding the dispute in question was consistent with the law and was based on valid Grounds, where the primary department duly examined the dispute and reached the conclusion it reached in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision. Based on the foregoing, the Department concluded to dismiss the appeal filed by Department and uphold the Primary Decision with regard to its conclusions based on the Grounds stated therein.

Regarding the Appellant's objection to the misdeclaration and late payment fines, and since ZATCA confirmed in its response letter to the Appellant's claims before the First Department that the fines were completely cancelled. Accordingly, the Appellate Department therefore concludes that the dispute between the two parties to the case has ended.

Regarding the appeal filed by ZATCA requesting the annulment of the Primary Department's decision regarding the contract notarization fees item, the appellant requested to subject the item to the basic VAT, given that the Appellee (.....Department) acknowledged providing a service to its clients. It was also established that the appealed decision regarding the dispute under consideration was consistent with the law and was based on sound Grounds, where the primary department examined the dispute reaching its conclusion as stated in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision Based on the foregoing, this Department concludes to dismiss the appeal filed by ZATCA and uphold the Primary Department's decision based on the Grounds stated therein.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: With regard to the Appeal filed by Department,

1. Accept ZATCA's appeal in form.
2. Dismiss the appeal of Department C. R. No. (...) regarding local purchases subject to the basic tax rate, and uphold the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No.(357-2021-VR).
3. Dismiss the appeal of Department C. R. No. (...) related to "Water Expenses", and uphold the First Department to adjudicate Value Added Tax Violations and Disputes in Riyadh No (357-2021-VR).
4. Dismiss the appeal of Department C. R. No. (...) Regarding local sales subject to the basic tax rate, and uphold the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh (357-2021-VR).
5. End dispute regarding the Misdeclaration Penalty.
6. End dispute regarding the Late Payment Penalty.

Second: With regard to ZATCA Appeal:

1. Accept ZATCA's appeal in form.



2. Dismiss ZATCA's appeal regarding contract notarization fees and uphold the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh (351-2021-VR).

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee:

First Appellate Department for Income Tax and Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-462)
Issued in Appeal No. (V-83891-2021)

Key words:

Value Added Tax - Notice of dismissal of Objection - Acceptance of Appeal and Remanding the Case

Abstract

The Appellant instituted this case to cancel the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam No. (1269-2021-VD) in the case filed by the Appellant against the Appellee, ZATCA, which ruled to dismiss the case for prescription. The Appellate Department found that, based on the statements and documents submitted in the case, there was a discrepancy in the defenses presented by the Appellee. The Appellee first argued that no objection was filed with it, while the Appellant submitted email between the Appellant and the concerned person with ZATCA, proving that an objection was made to the assessment, the Appellee also entered another defense, claiming that the objection submitted by mail was filed after prescription of legally-prescribed period. However, it was found that the Appellant filed his objection by mail on Friday, 29/01/2021, which was the last day for objection, and since it falls on an official holiday, the deadline extends to the first working day following the official holiday, the Appellant is therefore entitled to submit his objection by Sunday, 31/01/2021. Accordingly, the Department ruled to accept the appeal and remand the case to the primary department to re-decide it.

Instruments:

- Article (22) of [the Law of Civil Procedure promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH](#)
- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH](#).

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday 26/12/1443 AH, corresponding to 25/07/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed under Royal Decree No. (65474) dated 23/11/1439 AH, in accordance with Article 67.5 of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended under Royal Decree No. (M/113) dated 02/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 25/11/2021 AD, by... National ID No..... against decision of First Appellate Department for Value Added and Excise Tax Violations and Disputes in Dammam No. (1269-2021-VD) in the case filed by the Appellant against the Appellee ZATCA.



Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:

- Dismiss the case for prescription of period specified by the Law for objection for the periods in question.

Since Appellant dissatisfied with this decision, it submitted a statement of appeal that included its objection to the Primary Department's decision in question, which ruled to dismiss the Case in form, while Appellant requested abolishment of the said decision on Grounds that it has filed the objection within the period prescribed by law. Appellant concluded by requesting that its appeal be accepted and the appealed decision be abolished.

On Tuesday 26/12/1443 AH corresponding to 25/07/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Chamber sessions may be held via modern technical means provided by General Secretariat." The Case file, all memoranda, documents, and Primary Department's decision under appeal were reviewed. Upon calling the parties, for the Plaintiff appeared, a Saudi National, holder of National ID No. under POA No. (...) in his capacity as the representative of the Waqf Supervisor. For the Defendant appeared Mr....., (Saudi National, under National ID No. (...)) In his capacity as ZATCA's Representative by Authorization Letter No. (...), dated 08/08/1442 AH, issued by the Deputy Governor for Legal Affairs, at the beginning of the session, when both parties were asked what they would like to add, they responded by stating that they were satisfied with their submissions. The Taxpayer's representative also reminded of the provisions of Article (52) of the Tax Dispute and Violation Committee Procedures. Accordingly, the Department decided to adjourn the session for study, deliberation, and delivery of the decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Rules of Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: the Appellate Department, having reviewed the case papers and examined the documents and papers they contained, and having examined the submissions and arguments submitted by the two parties, found that the decision issued by the Primary Department ruled to dismiss the case in form for prescription of period and not initially submitting an objection to ZATCA; and since the Appellant objects to the Primary Department's decision on the Grounds that it has filed the objection within the prescribed period, and since the Primary Department's decision is based on the conclusion that the case has been filed prematurely before receiving ZATCA's response to the objection and that the ninety-day period has not passed. However, the Department found that ZATCA's Public Relations Manager's email dated 16/02/2021 is considered a notice of dismissal of the objection, and since it is established according to the statements and documents submitted in the case that there is a discrepancy in the arguments submitted by the Appellee, where it first argued that no objection was filed to it and when the Appellant submitted the email between it and ZATCA's Public Relations Manager proving the objection to the assessment, it filed another argument that the objection submitted by email exceeded the prescribed period; and given that the Appellant submitted its objection by mail on Friday, January 29, 2021, which is considered the last day for objection, and that day fell on an



official holiday, the deadline extends to the first working day following the official holiday. Thus, the Appellant is entitled to submit its objection by Sunday, January 31, 2021, in accordance with the provisions of Article (22) of the Law of Civil Procedure. Accordingly, this Department hereby rules to accept the appeal and quash the primary decision.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Accept the Appeal of /... Company C. R. No. (...) In form be submitted during regulatory period.

Second: Accept the Appeal of /... Company C. R. No. (...) And overturn the Primary Department's Decision No. (1269-2021-VD) of the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam and remand the case to the primary department to re-consider it in terms of substantive part.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee:

First Appellate Department for Income Tax and Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-464)
Issued in Appeal No. (V-89958-2021)

Key words:

Value Added Tax - Property Sale Value Added to Sales Item - Final assessment Notice - Late Payment Penalty - Dismissal of Appeal.

Abstract

The Appellant requested to overturn the decision of the Primary Department No. (1612-2021-VD) in the case filed by the Appellant against the Appellee. The decision dismissed the Plaintiff's case, based on the fact that 01/10/2020 was the effective date of the real estate transaction tax and the date of exemption from VAT. The appeal concluded with a request to accept the appeal and annul the Department's decision. The Appellate Department found that the decision was based on sound Grounds, where the primary department duly examined the dispute to reach the conclusion it reached in its operative part. The Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department. Therefore, this department concluded to uphold the primary decision. Therefore, the Department ruled to: dismiss the appeal.

Instruments:

- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Monday 26/12/1443 AH, corresponding to 25/07/2022 AD, First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed under Royal Decree No. (65474) dated 23/12/1439 AH, in accordance with Article 67.5 of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended under Royal Decree No. (M/113) dated 02/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 03/11/2022 AD, by ... National ID No..... in the Appellant's own capacity, against the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam No. (1612-2021- VD) in the case filed by Appellant against Appellee .

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:

First: In Form: In form:

- To Accept case in form.

Second: On merits:

- To dismiss Plaintiff case.



As this decision was not accepted by the Appellant, it submitted a statement of appeal to the Appellate Department, objecting to the Department's decision to reject its objection to the Appellee's decision regarding the final assessment notice for the tax period related to the fourth quarter of 2019. The Appellant challenges the decision of the Primary Department and requests that the property sale value is not added to "Sales" item for being dated on 01/10/2020, which was the effective dates of real estate transaction tax and the date of exemption of real estate from value-added tax. The appeal was concluded with a request to accept the appeal and overturn the primary decision.

On Tuesday 26/12/1443 AH corresponding to 25/07/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appeals Chamber may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appeals Chamber decision subject of appeal have been reviewed. After discussion and deliberation, the Chamber decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Rules of Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas, appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its regulatory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On merits, by reviewing the case files and examining the documents they contained, and after reviewing the memoranda and responses submitted by the two parties, Appellate Department found that the decision delivered by Appellate Department ruled to accept the case filed by Plaintiff/ ... regarding his objection to the final assessment notice for the tax period relating to the fourth quarter of 2019. It was also established that the appealed decision regarding the dispute under consideration was consistent with the law and was based on sound Grounds, where the primary department examined the dispute reaching its conclusion as stated in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision. Based on the foregoing, the Department concludes to reject the Appeal and uphold the decision of the Primary Department, as supported by its reasoning.

For the aforementioned Grounds, and after legal deliberation, the Department unanimously decided as follows:

Decision:

First: In Form: Accept Appeal From/... National ID No..... in form to be submitted within the period specified by law.

Second: Dismiss the appeal of National ID No..... Regarding adding the amount in dispute to the "Sales Subject to the 5% Rate" item, and uphold the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam No. (1612-2021-VD).

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee:

First Appellate Department for Income Tax and Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-469)
Issued in Appeal No. (V-80834-2021)

Key words:

Value Added Tax - Late Payment Penalty - Tax Reassessment - Failure to Clearly and Separately separate Fees in the Tax Invoice.

Abstract

The Appellant instituted this case requesting to overturn the decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No.(VSR-2021-608) in the case filed by Company, a closed joint-stock company against ZATCA, which dismissed the Plaintiff's case regarding subjecting the Capital Market Authority's share of the commission to basic tax rate for the tax period in question, and ended dispute regarding subjecting the share of Commission of the Saudi Exchange Company to the basic tax rate, and regarding the fines resulting from the reassessment for the tax period in question. The Appellate Department found that the Appellee asserted in its petition that the Capital Market Authority's share of the commission for exercising its duties as a public authority is not subject to tax. This clearly contradicts its own procedure of subjecting the total value of commission received from the client to tax, given the failure to clearly and separately itemize the fees in the tax invoice. The Appellant's formal violations are not as significant as the substantive dispute related to the right to impose tax on the commission amount, given that it is exempt from tax. The Appellate Department therefore concludes to accept the appeal and overturns the decision of the Primary Department. Accordingly, this Department rules to: Accept the appeal in form, and on merits, accept the appeal and overturn the decision of the Second Department.

Instruments:

- Article (9/5) and (14) of [the Implementing Regulations of the Value Added Tax Law issued pursuant to Resolution No. \(3839\) of the Board of Directors of the General Authority of Zakat and Tax, dated 12/14/1438 AH.](#)
- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Tuesday 02/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed under Royal Decree No. (65474) dated 23/12/1439 AH, in accordance with Article 67.5 of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/02/1425 AH, as amended under Royal Decree No. (M/113) dated 02/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 04/11/2021 AD, by....., National ID No..... In his capacity as the Appellant's Attorney under POA No., against the decision



of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (VSR-2021-608) in the case filed by Company, A closed joint stock company against ZATCA. Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:

First: In Form: In form:

- Accept Plaintiff's case in form.

Second: On merits:

- Dismiss the Plaintiff's claim regarding the subjection of the Capital Market Authority's share of the commission to basic tax rate for the tax period in question.
- End dispute regarding the subjection of the Saudi Exchange's share of the commission to basic tax rate for the tax period in question.
- End Dispute regarding the fines resulting from reassessment for the tax period in question.

As this decision was not accepted by the Appellant, the Appellant Company, a closed joint stock company, filed a statement of appeal objecting to the Department's decision to dismiss its claim regarding the final assessment for the tax period relating to April 2018. The Appellant requests that the Primary Department's decision be overturned and that the Capital Market Authority's commission not be subject to tax at the basic rate for the tax period in question, as it does not separate the Capital Market Authority's share of the commission from the tax invoice issued to the end customer. The appeal concluded by requesting that the appeal be accepted and the Department's decision be overturned.

Having presented the statement of appeal of the Appellant Company, to the Appellee (ZATCA), the Appellee responded as follows: "ZATCA pleads with the Honorable Department to uphold the Primary Decision for being consistent with the provisions of Article (14) of the Implementing Regulations of the Value Added Tax Law, which states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity". The Taxpayer should separate the Capital Market Authority's share of the commission and disclose these fees clearly and separately in the tax invoice issued by it to the end customer, to clarify that the commission is collected for the Capital Market Authority according to the circular issued by the Saudi Exchange and attached by the Appellant, which states: "The market member and the depository center member must separate revenue not subject to value added tax." However, upon examining the Appellant's documents, ZATCA found that the Appellant has disclosed the total value of the commission."

On Tuesday 04/01/1444 AH, corresponding to 02/08/2022 AD, First Appellate Department for Value Added and Excise Tax Violations and Disputes held a session to consider the appeal submitted via video conference, based on Article 15.2 of Tax Dispute and Violation Committee Procedures, which stipulates that: "Sessions of Appeals Chamber may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appeals Chamber decision subject of appeal have been reviewed. After discussion and deliberation, the Chamber decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Rules of Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax



Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On merits, after reviewing case files and examining all relevant documents, submissions and replies submitted by the two parties, the Department found that the primary decision ruled to dismiss the case filed by (.....Company) regarding the cancellation of the Appellee's decision related to the final assessment for the tax period of April 2018. The Appellant requested that the Primary Decision be cancelled that the commission of the Capital Market Authority should not be subject to tax at the basic rate for the disputed tax period, in accordance with Article (9.5) of the Implementing Regulations of the Value Added Tax Law, being a government entity practicing its activity as a public authority. The premises of the Primary Department's decision to subject the commission to tax at the basic rate is that the Appellant issued a tax invoice for the full value of the commissions and did not comply with the directive issued by Company which required that the commissions of the Capital Market Authority be separated as non-taxable income. Given that the Appellee confirmed in its memorandum that the share of the Capital Market Authority in the commission for exercising its duties as a public authority is not subject to tax, which clearly contradicts its procedure of subjecting the total value of the commission received from the client to tax, due to the failure to clearly separate the fees in the tax invoice, and since the circular issued by the Saudi Exchange states that "The commission on... securities is subject to VAT except for the Capital Market Authority's share"1 and since the Appellant's formal violations are not as significant as the substantive dispute regarding the right to impose tax on the commission amount, given that it is exempt from tax, the Appellate Department has decided to accept the appeal and overturn the decision of the Primary Department.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

1. accept Appeal in form.
2. Accept the Appeal of Company a closed joint-stock company, Commercial Registration No. regarding subjecting the Capital Market Authority's commission to the basic 5% tax rate and overturn the decision of the Second Department for Adjudication of Value-Added Tax Violations and Disputes in Riyadh No. (608-2021-VSR).

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee:

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-504)
Issued in Appeal No. (V-74915-
2021)

Key words:

Value Added Tax - Local Sales and Purchases Subject to the Basic Tax Rate - Late Payment Penalty
- Reassessment of Tax Return - Inclusion of "Commission Received" in the "Sales" section -
Concluding an Insurance Contract with a Third Party.

Abstract

The Appellant instituted this case requesting to overturn the decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No.(VSR-2021-500) in the case filed by Company, against ZATCA, which dismissed the claims of Plaintiff,.....Company, C.R. No., with respect to local sales and purchases subject to basic tax rate for the tax period in question, and end dispute with respect to the late payment penalty resulting from the reassessment of the tax return for the tax period in question, on Grounds that the "received commission" was added to the the "sales" item, for being a result of another insurance contract unrelated to the primary insurance contract. In addition, the Appellant requested to overturn the Primary Department's decision to subject amounts received from the reinsurance contract, where "compensation from claims" was added to the "sales" item, as it represents compensation and not revenue generated from sales. The Appellant also requested that the Primary Department's decision to deduct a portion of purchases be reversed, as the Appellant did not issue invoices, nor did it authorize a third party to issue invoices on its behalf. ZATCA responded by stating that it found during the examination and audit stage that the Plaintiff had concluded an insurance contract with a third party—reinsurance contract—for several reasons, including reducing the risk to the Plaintiff. Accordingly, ZATCA maintains the validity of its decision. Based on the Plaintiff's explanation, it appears that it has confused the Primary Department's decision and its decision Grounds with ZATCA's decision and its Grounds, which have been explained above. Third: Regarding the Plaintiff's objection to the amendment to the local purchases subject to the basic tax rate: ZATCA discovered during the examination and audit stage that the Plaintiff was issuing invoices on behalf of the supplier without a prior written agreement between the Plaintiff and the supplier. It was established that the appealed decision regarding the dispute under consideration was consistent with the law and was based on sound Grounds, where the primary department examined the dispute reaching its conclusion as stated in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision Regarding the Appellant's objection to subjecting compensation resulting from claims to tax, it was established, according to the documents submitted in the case, that the amounts collected as damages should have been declared in the sales item. However, these amounts are not "sales" given that they did not result from a "supply" or any of the events that give rise to the tax (receiving a payment, issuing an invoice, or supply), and since the tax is based on the invoice, and since it is one of the matters that does not apply to



the disputed amount given that it results from "compensation" provided by the insurer under the insurance contract, which requires the insurer to pay such compensation in certain cases. Regarding the Appellant's objection to the item of purchases subject to the basic tax rate (5%), it was found that there was no agreement between the Appellant and the company to issue invoices on its behalf in accordance with the agreement signed between the two parties. Deducting a portion of the purchases without clarifying the sample requested by the Appellant or the invoice numbers included in the statement and the credit note numbers, resulted in inability to identify the basis for the assessment, which is held in violation of the law. therefore, this Department concluded to: dismiss the appeal of Company regarding the subjection of "commission received", uphold the decision of the Second Department, accept the appeal of Company regarding the subjection of "compensation from claims", overturn the Department's decision, accept the appeal of Company regarding the removal of "purchases subject to basic rate" and overturn the Department's decision.

Instruments:

- Articles (14), (33), (53) and (64.2) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) on 14/12/1438 AH.](#)
- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday 08/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed under Royal Decree No. (65474) dated 23/10/1439 AH, in accordance with Article 67.5 of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended under Royal Decree No. (M/113) dated 02/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 10/10/2021 AD, by... C.R. No. against the decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No.(VSR-2021-500) in the case filed by Company, Against ZATCA. Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:

First: In Form: In form:

Accept Plaintiff's case in form.

Second: On merits:

- Accept the Case filed by the Plaintiff Company, C.R....., relating to local sales and purchases subject to basic tax rate for the tax period in question.
- End dispute regarding the late payment penalty resulting from the reassessment of the tax return for the tax period in question.

Dissatisfied with the decision, the Appellant filed to the Appellate Department a statement of appeal that included its objection to the primary decision that dismissed its claim regarding the final assessment for the tax period related to June 2019 (sales and purchases items). The Appellant requested that the primary decision regarding adding the amounts received from the reinsurance contract "received commission" to the "sales" item on Grounds that these amounts resulted from another insurance contract not related to the primary insurance contract. In addition, the Appellant requested that the Primary Department's decision regarding subjecting the amounts received from the reinsurance contract to tax, where the "compensation from claims" was added to the "sales" item be cancelled, for being a compensation and not revenue realized as a result of sales. The Appellant also requested that the Primary Department's decision regarding excluding a portion of the purchases be overturned because it does not issue invoices nor did it authorize a party to issue



invoices on its behalf, and the declaration was not based on a credit note, but rather based on invoices received from medical service providers. The Appellant concluded its statement requesting that the appeal be accepted and the primary decision be overturned.

Having presented the Appellant's statement to the Appellee (ZATCA), the Appellee responded as follows: "Regarding the item of local sales subject to the basic tax rate: (a) During the examination and audit stage, ZATCA discovered that the Plaintiff had entered into an insurance contract with a third party—reinsurance contract—for several Grounds, including to reduce the risks. From the company's perspective, the reinsurance contract is considered part of the primary insurance contract. However, for the purposes of the Value Added Tax Law and its Implementing Regulations, the insurance contract was considered separate from the primary insurance contract. Then, there are two contracts: (a) the primary insurance contract. (b) the reinsurance contract. Accordingly, the tax treatment is as follows: The Plaintiff company recognizes the full value of the primary insurance contract under the item of local sales subject to the basic tax rate and the item of local purchases subject to the basic tax rate. With regard to the reinsurance contract, the Plaintiff company recognizes the amount of compensation and commission from the reinsurance company as basic sales. In return, the insurance company is entitled to deduct the input tax on the premiums paid to the reinsurer. The company recognized the amounts of commissions and claims recovered from non-resident reinsurers within the zero-rated exports category, considering them to be services that meet the conditions of Article (33) of the Implementing Regulations of the Value Added Tax Law. For applying the zero rate to these transactions and services, ZATCA requested export statements from the Plaintiff company in order to determine the insurance documents for the tangible goods. Any commissions or refunds from reinsurers that are linked to insurance policies related to tangible goods, will be treated as subject to VAT at the basic rate, based on the provisions of Article (33) of the Implementing Regulations of the Value Added Tax Law. After studying and reviewing the Plaintiff's attachments, the amounts related to insurance policies related to tangible goods were identified and added to the item of local sales subject to basic tax rate. This was due to the failure to meet the conditions of Article (33) of the Implementing Regulations of the Value Added Tax Law, which excludes them from the scope of the zero rate. Accordingly, ZATCA maintains the validity of its procedure based on Article (14) of the Implementing Regulations of the Value Added Tax Law, which states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom" (b) In response to Appellant's statement at the beginning of its appeal regarding the submission of documents, where it highlighted part of the Department's reasoning, in which the Department stated, "The Plaintiff did not submit valid documents that prove the invalidity of the Defendant's action." The Appellant then commented that it had submitted to ZATCA the documents requested from it during the review of the objection, and referred to ZATCA's Reply submitted to the Department. The Appellant concluded by saying, "This proves the invalidity of the primary decision's conclusion that we did not submit the documents that prove the invalidity of the action taken by ZATCA". We draw your attention to the fact that the Department did not indicate in its memoranda or the decision delivered that the Plaintiff had not submitted the documents regarding the item of local sales subject to the basic tax rate. It was plain, based on the Plaintiff's arguments, that it had confused the Department's decision and its Grounds with ZATCA's decision, the Grounds of which have been explained above. Third: Regarding the Plaintiff's objection to the amendment to the local purchases subject to the basic tax rate: During the examination and audit stage, ZATCA found that the Plaintiff was issuing invoices on behalf of the supplier without a prior written agreement between the Plaintiff and the supplier in accordance with Article (53.2) of the Implementing Regulations of the Value Added Tax Law.



On Monday 10/01/1444 AH corresponding to 08/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appeals Chamber may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appeals Chamber decision subject of appeal have been reviewed. After discussion and deliberation, the Chamber decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Rules of Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On merits, after reviewing case files and examining all relevant documents, submissions and replies submitted by the two parties, the Department found that the primary decision ruled to dismiss the case filed by (.....Company)) Regarding the cancellation of the decision of the Appellee (ZATCA) regarding the final assessment for the tax period relating to June 2019, and regarding received commission item, and since the Appellant requests to overturn the primary decision as to its conclusion to subject the amount received from the reinsurance contract to tax on Grounds that the amount recognized within the Sales item resulted from another insurance contract not related to the primary contract; and since it was established that the appealed decision regarding the dispute in question was consistent with the law and was based on valid Grounds, where the primary department duly examined the dispute and reached the conclusion it reached in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision. Based on the foregoing, the Department concluded to dismiss the appeal filed by Company and uphold the primary decision based on the Grounds stated therein.

Regarding the Appellant's objection to subjecting compensation resulting from claims to tax; and since the Appellant requested to overturn the primary decision as to subjecting the amounts received from the reinsurance contract to tax, as those amounts recognized within the Sales item is compensation and not a revenue realized from sales, it was established, according to the documents submitted in the case, that the amounts collected as damages should have been declared in the sales item. However, these amounts are not "sales" given that they did not result from a "supply" or any of the events that give rise to the tax (receiving a payment, issuing an invoice, or supply), and since the tax is based on the invoice, and since it is one of the matters that does not apply to the disputed amount given that it results from "compensation" provided by the insurer under the insurance contract, which requires the insurer to pay such compensation in certain cases. Accordingly, this Department concludes to accept the appeal in this respect.

Regarding the Appellant's objection to the item of purchases subject to the basic tax rate (5%), the Appellant requests that the Primary Department's decision be overturned as it deducted a portion of the purchases, given that the Appellant does not issue invoices and nor did it authorized a third party to issue invoices on its behalf. The decision was not based on a credit note, but rather on invoices received from medical service providers. It is established, according to the data and documents submitted in the case, that the Appellant entered into an agreement with Company for the purpose of managing medical claims received by the insurance company for a fee. The medical service provider (hospitals or clinics) issues an invoice in the Company's



name, and company reviews and assesses the claims and invoices in preparation for payment. It was established that there was no agreement between the Appellant and the Company to issue invoices on its behalf as per the agreement between the two parties. Invoice No. (40067919), issued on 11/01/2018, from the supplier "..." bears the name of Company and not..... Moreover, the deduction of a portion of the purchases without specifying the sample that was requested from the Appellant or the invoice numbers included in the statement and the credit note numbers resulted in Undefined Grounds for assessment, which is held in violation of Article (64.2) of the Implementing Regulations of the Value Added Tax Law, which provides: "An assessment issued by the Authority shall at a minimum show the Net Tax payable, the due date for payment, and the basis for calculation of the assessment. The assessment shall notify the Taxable Person of its rights to appeal the assessment". Therefore, the Appellate Department concludes to accept the appeal in respect of this item.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

1. accept Appeal in form.
2. dismiss the appeal of Company C.R. No. related to the "received commission" item, and uphold the Second Department to adjudicate Value Added Tax Violations and Disputes in Riyadh No (500-2021-VSR).
3. Accept the Appeal of Company C.R. No. Regarding the subjection of "compensation from claims", overturn the decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (500-2021-VSR), and cancel the appellee's decision.
4. Accept the Appeal of Company C.R. No. Regarding the deduction of "purchases subject to the basic rate", overturn the decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (500-2021-VSR), and cancel the appellee's decision.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee:

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-505)
Issued in Appeal No. (V-
80733-2021)

Key words:

Value Added Tax - Misdeclaration Penalty - Late Payment Penalty - Tax is Imposed on all Taxable Supplies of Goods and Services Supplied by any Taxpayer - general rule remains general

Abstract

The Appellant instituted this appeal challenging the decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (593-2021-VSR) in the case filed by the Appellant against the Appellee, which dismissed the case filed by the Plaintiff.....Contracting Company Limited, Commercial Registration No., regarding the item of local sales subject to basic tax rate for the tax period in question, and to end dispute regarding the late payment penalty and the Misdeclaration Penalty; Based on the fact that its contracts were concluded before 30/05/2021 and met the conditions. ZATCA responded that it upholds the Primary Decision, indicating that the term "taxes" in the contract was general, and general remains general. Thus, the supply cannot be treated as zero-rated due to the absence of main condition for that, which is (the absence of expectation of the application of value-added tax). The Appellate Department established that the decision was consistent with the law and was based on valid Grounds, where the primary department duly examined the dispute and reached the conclusion it reached in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision in this respect. As for the Appellant's objection to the contract concluded with on 01/06/2016, it was established, according to the documents submitted in the case, that the contract was concluded before 30/05/2017, and before the date of adoption and publication of the decision approving the Common Agreement. It is therefore inconceivable that the application of value-added tax was expected at that time, as the apparent understanding of the clear text includes all taxes imposed at that time. Accordingly, this Department ruled to: Accept the appeal in form, and dismiss it on merits with respect to the contract concluded with Company, and accept the appeal with respect to the contract concluded with

Instruments:

- Articles 14 of of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) on 14/12/1438 AH.](#)
- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.



On Tuesday 11/01/1444 AH, corresponding to 09/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed under Royal Decree No. (65474) dated 23/11/1439 AH, in accordance with Article 67.5 of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended under Royal Decree No. (M/113) dated 02/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 04/11/2021 AD, by... National ID No..... in his capacity as an attorney for the Appellant company under POA No. (...) against the decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (593-2021- VSR) in the case filed by Appellant against Appellee .

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:

First: In Form: In form:

- Accept Plaintiff's case in form.

Second: On merits:

- Accept the Case filed by the Plaintiff Company, For Contracting Limited, C.R....., relating to local sales subject to basic tax rate for the tax period in question.
- end dispute regarding the late payment penalty and the misdeclaration penalty resulting from the final assessment notice for the tax period in question.

As this decision was not accepted by the Appellant, it submitted an Appeal Statement to the Appellate Department, objecting to Primary Committee's decision, which rejected its claim requesting annulment of Appellee's decision regarding the reassessment for March 2018. It requests annulment of Primary Committee's decision on the Grounds that the contract was concluded before 30/05/2017 and meets the conditions specified in paragraph (3) of Article (79) of the Implementing Regulations of VAT Law. The Appellant concluded by requesting acceptance of the Appeal and annulment of Committee's decision.

In response to Appellant statement, Appellee submitted a counter-argument, summarized as follows: Regarding the Appellant's appeal against the item of local sales subject to the basic tax rate, ZATCA pleads with the Honorable Department to uphold the Primary Decision for being consistent with the provisions of Article (14) of the Implementing Regulations of the Value Added Tax Law, which states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity". Moreover, the contract concluded by the Appellant on 06/03/2017 with Company shows that Clause (13.5), related to amendments to the laws, addressed the value added tax. As for the contract concluded by the Appellant on 01/06/2015 with, after reviewing the contract, it was found that Clause (13.7), related to amendments to the laws, indicated that the contract value may be adjusted, up or down, according to any amendment in any existing laws or enacting new laws. Clause No. (14.1.2) regarding the value of the contract addressed the issue of tax. Article (79.3) of the Implementing Regulations of the Value Added Tax Law stipulated that "the supplier may treat any supply of goods or services in relation to a contract in which he did not expect the application of value added tax with respect to the supply as a zero-rated supply" Since the term "taxes" contained in the contract was general and the general remains general, therefore the supply cannot be treated with the zero rate due to the absence of the main condition for that, which is (the absence of expectation of the application of value added tax)."

On Tuesday 11/01/1444 AH, corresponding to 09/08/2022 AD, First Appeals Chamber for Tax Violations and Disputes Value Added and Excise Goodsheld a session to consider the appeal submitted via video conference, based on Article 15.2 of Tax Dispute and Violation Committee Procedures, which stipulates that: "Chamber sessions may be held via modern technical means provided by General Secretariat." Case file, all memoranda, and documents were reviewed, along



with Primary Department's decision under appeal. Upon calling the parties, for the Appellant appeared Mr....., ID No..... pursuant to PoA No..... For the Appellee appeared Mr....., a Saudi national, national ID No....., in his capacity as the Appellee's representative under authorization letter No..... dated..... issued by Deputy Governor for Legal Affairs, Department decided to open pleadings by asking Appellant about the case. It replied that it is satisfied with appeal statement and memoranda submitted on portal of General Secretariat, and adheres to the evidence and defenses contained therein. Upon presenting the case to the Appellee's representative, he answered that he was satisfied with the memoranda submitted to the portal of the General Secretariat of Zakat, Tax and Customs Committees, and that he adhered to the Grounds and defenses contained therein. When both parties were asked what they would like to add, they replied that they were satisfied with what had been previously submitted. Accordingly, the pleadings were closed and the case was referred for study, deliberation, and issuance of a decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Rules of Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas, appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its regulatory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On merits, by reviewing the case files and examining the documents they contained, and after reviewing the memoranda and responses submitted by the two parties, Appellate Department found that the decision delivered by Appellate Department ruled to accept the case filed by Plaintiff Contracting Limited against ZATCA. The Appellant objects to the dismissal of its objection regarding the final assessment for March 2018 (sales item). The Appellant requested that the basic rate of VAT not be applied to its contracts concluded before 30/05/2017, as they meet the conditions stipulated in Article (79.3) of the Implementing Regulations of the Value Added Tax Law. With regard to the Appellant's objection to the contract concluded with Company on 06/03/2017, and it was also established that the appealed decision regarding the dispute under consideration was consistent with the law and was based on sound Grounds, where the primary department examined the dispute reaching its conclusion as stated in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision Therefore, Appeals Chamber concludes acknowledgment of appeal rejection the support of Appeals Chamber decision it reached in this clause, attributed to its Grounds.

Regarding the Appellant's objection to the contract concluded with on 01/06/2016, since the appeal was based on the claim that the contract in issue included the term "taxes" which was general and undefined, and since it is established according to the documents submitted in the case that the contract entered into before 30/05/2017 and before the approval and publication of the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) on 21/04/2017 regarding the unified imposition of VAT in the GCC, it is unreasonable to have anticipated the application of VAT at that time, as the plain meaning of the text includes all taxes imposed at that time. Consequently, the Department sees fit to accept the Appeal on this item and overturn Primary Committee's decision.

Therefore, and after due deliberation, Chamber unanimously decided the following:

Decision:



First: In Form: Accept the Appeal filed by..... Contracting Limited, C.R. No..... in form to be submitted within the period specified by law.

Second: Dismiss the appeal of..... Contracting Limited, C.R. No., regarding the contract concluded with Company and uphold Decision of Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (593-2021-VSR).

Third: Accept the Appeal of /... Company Contracting Limited, C.R. No..... Regarding the contract concluded with, overturn the decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh City No. (593-2021-VSR), and subject the contract concluded with... to zero-rate tax.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee:

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-510)
Issued in Appeal No. (V-
83680-2021)

Key words:

Value Added Tax - Local Sales Subject to Basic Rate - Misdeclaration Penalty - Late Payment Penalty - Adjustment of Supply Value - Insurance Rejections- Undefined Grounds for Assessment - Final Reassessment.

Abstract

The Appellant instituted this case requesting to overturn the decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (VSR-2021-788) in the case filed by Company, against ZATCA, which dismissed the Plaintiff's case regarding local sales subject to the basic rate and the misdeclaration fine and late payment fine for the tax period in question. The Appellant requests that the Primary Department's decision regarding recognizing the disputed amount within the "sales" item, for being "discounts" and therefore entails "adjusting the supply value". The Appellant concluded its claims requesting that the appeal be accepted and the committee's decision be cancelled. ZATCA responded that the amounts in dispute are actually discounts granted by the Appellant, but they fall under "insurance rejections", as they were services provided and the insurance company refused to pay for them. They are not considered an adjustment to the value, as neither party referred to them in the contract. The Appellate Department concluded that it could not determine the Grounds for the assessment. Failure to state the Grounds for the assessment deprives the Appellant of its right to know the source of the amount and its accounting basis. Therefore, the Appellate Department accepts the appeal regarding this item. Given that the imposition of fines was a result of the final reassessment of the disputed tax period, they should be cancelled due to the cancellation of the Primary Department's decision. Accordingly, the Appellate Department ruled to: Accept the appeal in form, and on merits to accept the appeal with regard to recognizing the disputed amount within the "sales subject to the basic rate" item, as well as the items of misdeclaration penalty and late payment penalty, overturn the decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (788-2021-VSR), and cancel the decision of the Appellee.

Instruments:

- Articles 64 of of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) dated 14/12/1438 AH.](#)
- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.



On Monday 08/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed under Royal Decree No. (65474) dated 23/24/1439 AH, in accordance with Article 67.5 of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended under Royal Decree No. (M/113) dated 02/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 24/10/2021 AD, by... C.R. No. against the decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh (788-2021-VSR) in the case filed by... Against ZATCA.

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:

First: In Form: In form:

Accept Plaintiff's case in form.

Second: On merits:

- Accept the Case filed by the Plaintiff Company, C.R....., relating to local sales subject to basic tax rate for the tax period in question.
- Accept the Case filed by the Plaintiff Company, Commercial Registration No., regarding the misdeclaration fine and late payment fine for the tax period in question.

Dissatisfied with the decision, the Appellant submitted to the Appellate Department a statement of appeal containing its objection to the Department's decision to dismiss its case regarding the final assessment for the tax period relating to November 2019 (sales item) and the resulting fines. The Appellant requested to overturn the Primary Department's decision to recognize the disputed amount within the "sales" item, as it constitutes "discounts" and therefore entails "adjusting the value of supply". The appellant concluded its claims requesting that the appeal be accepted and the Department's decision be annulled.

Having presented the Appellant's statement to the Appellee (ZATCA), the Appellee responded as follows: "They are indeed discounts granted by the Appellant, but they fall under the "insurance rejections" because they represent services that were performed and the insurance company refused to pay for them. They do not constitute an adjustment to the value, as the parties did not refer to them in the contract."

On Monday 10/01/1444 AH corresponding to 08/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appeals Chamber may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appeals Chamber decision subject of appeal have been reviewed. After discussion and deliberation, the Chamber decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Rules of Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On merits, after reviewing case files and examining all relevant documents, submissions and replies submitted by the two parties, the Department found that the primary decision ruled to dismiss the case filed by (.....Company)) As for the cancellation of the decision of the Appellee regarding the final assessment for the tax period related to November 2019 and the fines resulting therefrom, and with regard to the item of local sales subject to basic tax rate, and whereas the Appellant



requests the cancellation of the Primary Decision related to recognizing the disputed amount within the “sales” item, as they are deductions and therefore require adjusting the value of the supply. The Appellee however upheld to the primary decision on Grounds that these amounts are “insurance rejections” and are services that were performed and the insurance company “refused” to pay for them. The Department, having reviewed the data and documents submitted in the case, found that the “insurance companies” were not named nor were the “documents” based on which the assessment was made were provided. Since the Appellate Department did not find the basis for the assessment, and since Article (64.2) of the Implementing Regulations of the Value Added Tax Law stipulates: “An assessment issued by the Authority shall at a minimum show the Net Tax payable, the due date for payment, and the basis for calculation of the assessment. The assessment shall notify the Taxable Person of its rights to appeal the assessment”. Failure to state the Grounds for assessment deprives the Appellant of its right to know the source of the amount and basis for its assessment. Accordingly, the Appellate Department concludes to accept the appeal in respect of this item.

With regard to Appellant’s objection to the fines item, and given that the Appellant requests to cancel the misdeclaration fine and late payment fine resulting from the adjustment of the tax return for the period in dispute; and since the imposition of these fines was due to the Final Reassessment of the tax period in question; and since this Department has accepted the appeal on the item above and abolished the primary decision; and since these fines resulted from the said item, the resulting occurrence shall take the same effect; Therefore, the Department satisfies to accept the appeal on this item.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

1. accept Appeal in form.
2. Accept the Appeal of Company C.R. No. Regarding the recognition of the disputed amount within the “sales subject to the basic rate” item, overturn the decision of the Second Department to adjudicate Value Added Tax Violations and Disputes in Riyadh (788-2021-VSR), and cancel the Appellee’s decision.
3. Accept the Appeal of Company C.R. No. Regarding the misdeclaration fine and late payment fine, cancel the decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (788-2021-VSR), and cancel the Appellee 's decision.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee:

First Appellate Department for Income Tax and Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-543)
Issued in Appeal No. (V-89425-2021)

Key words:

Value Added Tax - Late Payment Penalty - Dismissal of Appeal.

Abstract

The Appellant requests to cancel the decision of the Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (1059-2021-VTR) in the case filed by the Appellant against the Appellee, claiming that the decision delivered by the Appellee was invalid. The case concluded with a request to accept the appeal and annul the Department's decision. The Appellate Department established that the decision was consistent with the law and was based on valid Grounds. The Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department. Therefore, the Appellate Department concluded to uphold the primary decision. This Department ruled to dismiss the appeal.

Instruments:

- Articles (15/2) and (40/2) of [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Monday 17/01/1444 AH, corresponding to 15/08/2022 AD, First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed under Royal Decree No. (65474) dated 23/12/1439 AH, in accordance with Article 67.5 of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended under Royal Decree No. (M/113) dated 02/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 29/12/2021 AD, by... National ID No..... As the owner of ... Contracting Company, Commercial Registration No., against the decision of the Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (1059-2021-VTR) in the case filed by the Appellant against the Appellee.

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:

- Dismiss the case in form.

Since this decision was not accepted by Appellant, it submitted to Appellate Department an appeal statement that included its objection to the decision of the Tax Dispute and Violations Committee subject of the appeal, to not accept its case in form for the lapse of the period permitted by the



Law for the objection, because the decision delivered by Appellee is not valid. The statement was concluded with a request to accept the appeal and overturn the primary decision.

On Monday 17/01/1444 AH corresponding to 15/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appeals Chamber may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appeals Chamber decision subject of appeal have been reviewed. After discussion and deliberation, the Chamber decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Rules of Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On merits, after reviewing case files and examining all relevant documents, submissions and replies submitted by two parties, Appellate Department found that the decision delivered by Department to not accept the case in form due to lapse of period prescribed by law. Since it is established that the decision subject of appeal with respect to conflict subject of consideration matches provisions of Law and Grounds on which it is based, and since Department did not find anything to be corrected or commented on with regard thereto in light of raised defenses submitted before such Department, Department acknowledged that such defenses shall not affect decision outcome. Therefore, Appeals Chamber concludes by acknowledging rejection of appeal and upholding Department decision.

For the aforementioned Grounds, and after legal deliberation, the Department unanimously decided as follows:

Decision:

First: In Form: Accept the Appeal of /... National ID No..... In form be submitted during regulatory period.

Second: Dismiss the appeal of National ID No..... And uphold Decision of Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (1059-2021-VTR).

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee:

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-559)
Issued in Appeal No. (V-84521-
2021)

Key words:

Value Added Tax - Local Sales Subject to the Basic Rate - VAT at the Basic Rate - Zero-rated Sales - Contracts Fulfilling the Conditions of Zero-Rate Contracts - Non-compliant Contracts Linked to Written Statements - Dismissal of Appeal

Abstract

The Appellant instituted this decision to cancel the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah No. (1685-2021-VJ) in the case filed by Company against ZATCA, which dismissed the Plaintiff's case regarding the Local Sales Subject to the Basic Rate for the tax period (July 2018) due to the validity of the Defendant's decision. The Appellant objects to the calculation of VAT at the basic rate for sales subject to zero-rate tax, as they resulted from contracts that met the conditions for zero-rate contracts. The Appellant concluded its petition pleading that the appeal be accepted and the primary decision be overturned. ZATCA responded that some of the submitted contracts had "expired" and the other part had not specified the "term of the contract." Furthermore, the Appellant had submitted contracts that did not meet the conditions. The Appellate Department found that the decision delivered by the Primary Department dismissed the claim of Appellant company to overturn the decision of the Appellee regarding the final assessment for the tax period related to July 2018 "sales" item. Regarding the objection to the item "contracts expired or with indefinite term", the Department established that the decision was consistent with the law and was based on valid Grounds, where the primary department duly examined the dispute and reached the conclusion it reached in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision in this respect. Regarding the Appellant's objection to the item (Non-compliant Contracts Linked to Written Statements), it is established, based on the data and documents submitted in the case, that the supplier possesses a written statement from his client proving his ability to deduct the full input tax on the supply. Since the Appellee's argument in the documents submitted by the Appellant is limited to formal aspects that are not supported by legal texts, the Department therefore concludes to accept the appeal regarding this item. This Department ruled to dismiss the appeal regarding "contracts expired or with indefinite term" item and accept the appeal regarding "Non-compliant Contracts Linked to Written Statements"

Instruments:

- Articles (79/3) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) dated 14/12/1438 AH.](#)
- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)



Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Monday 08/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed under Royal Decree No. (65474) dated 23/30/1439 AH, in accordance with Article 67.5 of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended under Royal Decree No. (M/113) dated 02/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 30/11/2021 AD, by... C.R. No. Against the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam (VD-2021-1685) in the case filed by company Against ZATCA. Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:

First: In Form: In form:

Accept Plaintiff's case in form.

Second: On merits:

- Dismiss Plaintiff Case with regard to the item "Local sales subject to the basic tax rate" for the tax period (July 2018) and uphold the Defendant's decision.

As this decision was not accepted by the Appellant, it submitted an Appeal Statement to the Appellate Department, objecting to the Committee's decision to dismiss its case regarding the final assessment for the tax period relating to July 2018 (sales item). The Appellant objects to the calculation of VAT at the basic rate for sales subject to the zero-rate tax, as they resulted from contracts that met the conditions for zero-rate contracts. The Appellant concluded its decision requesting that the appeal is accepted and the Department's decision be overturned.

Having presented the Appellant's statement to the Appellee (ZATCA), the Appellee responded as follows: "Some of the contracts submitted were "expired", while others did not specify the "term of the contract". In addition, the Appellant submitted contracts that did not meet the conditions. On Monday 10/01/1444 AH corresponding to 08/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appellate Department may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appellate Department decision subject of appeal have been reviewed. After discussion and deliberation, the Department decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Rules of Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas, appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its regulatory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On merits, after reviewing case files and examining all relevant documents, submissions and replies submitted by the two parties, the Department found that the primary decision ruled to dismiss the case filed by (.....Company) Regarding the cancellation of the decision of the Appellee (ZATCA) regarding the final assessment for the tax period relating to July 2018 (sales) item. Regarding the objection to the "contracts expired or with indefinite period" item, the appealed decision regarding the dispute in question was consistent with the law and was based on valid



Grounds, where the primary department duly examined the dispute and reached the conclusion it reached in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision. Based on the foregoing, the Department concluded to dismiss the appeal filed by Company and uphold the primary decision based on the Grounds stated therein.

Regarding the Appellant's objection to the item (Non-compliant Contracts Linked to Written Statements), and since the Appellant requests that VAT be calculated on these contracts at the zero rate, given that they meet the conditions of the zero-rate contract. It is established, according to the data and documents submitted in the case, that the supplier possesses a written certificate from his client proving his ability to deduct the full input tax on the supply, in accordance with Paragraph (c/3) of Article (79) of the Implementing Regulations of the Value Added Tax Law., and given that the Appellee's argument in the documents submitted by the Appellant is limited to formal aspects that are not supported by the law, the department therefore deems it appropriate to accept the appeal regarding this item.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

1. accept Appeal in form.
2. Dismiss the appeal of Company C.R. No. regarding the item (contracts expired or with indefinite term), uphold the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah No. (1685-2021-VJ).
3. Accept the Appeal of Company C.R. No. regarding the item (Non-compliant Contracts Linked to Written Statements), and overturn the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah No.(1685-2021-VJ), and cancel the appellee's decision.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee:

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-571)
Issued in Appeal No. (V-
78230-2021)

Key words:

Value Added Tax - Tax Reassessment - Deposits Provided by the Human Resources Development Fund - Costs Paid to Training Providers - Dismissal of Appeal.

Abstract

The Appellant instituted this appeal challenging the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (445-2021-VR) in the case filed by the Appellant against the Appellee, which dismissed the case filed by the Plaintiff.....Company, Commercial Registration No., to cancel ZATCA's decision regarding the Re-assessment for the month of January 2019, and the imposition of a value added tax in the amount of SAR 1,361,225, and cancel the fines imposed by ZATCA. The Appellant based its claims on Grounds that the revenues subject to tax are deposits provided by the Human Resources Development Fund (HADAF), concluding its petition with a request to accept the appeal and overturn the primary decision. The Appellate Department established that the Appellant is requesting to overturn the Primary Department's decision, given that the revenues are deposits deposited to be spent on the operating costs of the international colleges affiliated with the Technical and Vocational Training Corporation. Its role is limited to assuming the tasks and responsibilities of management and supervision of the operation of the international colleges, which includes contracting on behalf of... with international operators to operate these colleges as the actual suppliers of training services to these colleges. The Appellee argues that these revenues subject to tax have been paid for services provided to the parties mentioned in the agreement, and the consideration was determined in the contract based on the services specified, therefore the consideration is subject to tax. It is established that the other costs are not considered revenue for the Appellant, as they are costs paid to the parties providing training in exchange for operating these colleges, and the Taxpayer's role is limited to supervising these entities. This proves to the Appellate Department that these amounts are a deposit and not revenues. Accordingly, the Appellate Department concludes to accept the appeal and overturn the Primary Department's decision. this Department ruled to: Accept the appeal in form, and on merits to accept the appeal of company C. R. No. (...), overturn the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (445-2021-VR) and cancel the Appellee's decision.

Instruments:

- Article (2/1) of [the Human Resources Development Fund Regulations issued by Council of Ministers Resolution No. \(107\) dated 29/04/1421 AH.](#)
- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)



Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Monday 02/02/1444 AH, corresponding to 29/08/2022 AD, First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed under Royal Decree No. (65474) dated 23/10/1439 AH, in accordance with Article 67.5 of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended under Royal Decree No. (M/113) dated 02/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 19/12/2021 AD, by... National ID No..... in his capacity as Appellant attorney, under POA No. (.....), against the Decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (VR-2021-445) in the Case filed by Appellant against Appellee .

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:

First: In Form: In form:

- To Accept case in form.

Second: On merits:

- Accept the Case filed by the Plaintiff Company, Commercial Registration No., canceling ZATCA's decision regarding the re-assessment of January 2019, and imposing a VAT of SAR 1,361,225.
- cancel the fines in dispute issued by ZATCA.

Whereas the appellant did not accept this decision, it submitted an appeal to the Appellate Department, expressing its objection to the Primary Department's decision to reject its case. The appeal included a request to overturn the decision made by the appellee (ZATCA) concerning revaluation of January 2019. The Appellant requested that the Primary Department's decision be canceled, as the revenues subject to tax were a deposit provided by the Human Resources Development Fund (Hadaq). The appeal concluded with a request to accept the appeal and cancel the Department's decision.

On Monday 02/02/1444 AH corresponding to 29/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Chamber sessions may be held via modern technical means provided by General Secretariat." Case file, all memoranda, and documents were reviewed, along with Primary Department's decision under appeal. The parties were summoned, with Appellant's Representative/..., holder of National ID No. (...), appeared under Power of Attorney No. For the Appellee's appeared Mr....., a Saudi National, National ID No. in his capacity as Defendant's representative under authorization No. (.....) Dated 04/06/1442 AH issued by Deputy Governor for Legal Affairs, Department decided to open pleadings by asking Appellant about the case. It replied that it is satisfied with appeal statement and memoranda submitted on portal of General Secretariat, and adheres to the evidence and defenses contained therein. Upon presenting the case to the Appellee's representative, he answered that he was satisfied with the memoranda submitted to the portal of the General Secretariat of Zakat, Tax and Customs Committees, and that he adhered to the Grounds and defenses contained therein. When both parties were asked what they would like to add, they replied that they were satisfied with what had been previously submitted. Accordingly, the pleadings were closed and the case was referred for study, deliberation,

and issuance of a decision.



Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Rules of Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits, the Appellate Department, having reviewed the case papers and examined the documents and papers contained therein, and after reviewing the memoranda and responses submitted by both parties, found that the Appellant objects to the primary decision to dismiss its case regarding the re-assessment of January 2019, on Grounds that the revenues represent a deposit that was used to cover the operating costs of the international colleges affiliated with the Technical and Vocational Training Corporation, and its role is limited to assuming the tasks and responsibilities of management and supervision of the operation of the international colleges, which includes contracting on behalf of... with international operators to operate these colleges, as they are the actual suppliers of training services to these colleges. given that the role of the Human Resources Development Fund, as per Article (2.1) of its Regulation issued by Council of Ministers Resolution No. (107) dated 4/29/1421 AH, is "to provide subsidies for the rehabilitation, training, and employment of the national workforce in the private sector," and since the Appellee argues that these revenues are consideration for services provided to the parties mentioned in the agreement, and the consideration was determined based on the services specified in the contract. Therefore, the consideration is subject to tax. Since it was established according to the data and documents submitted in the case, that the added amount is a subsidy from Hadaf Fund, which totaled SAR 4,290,000,000, and the Appellant's costs were SAR 60,000,000, according to Article (5) of the contract, and since it is established that the other costs are not revenue for the Appellant, as they are costs paid to the parties providing training operating these colleges, and the Taxpayer's role is limited to supervising those entities only, and whereas Article (9) confirms HADAF's right to recover the money spent in the event of the termination of the agreement, which proves that these amounts are a deposit and not revenue, accordingly, the Appellate Department concludes to accept the submitted appeal and cancel the decision of the Primary Department.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Accept the Appeal filed by..... C. R. No. (...) in form to be submitted within the period specified by law.

Second: Accept the Appeal of /... Company C. R. No. (...), overturn the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (445-2021-VR) and cancel the Appellee's decision.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee:

First Appellate Department for Income Tax and Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-573)
Issued in Appeal No. (V-82932-2021)

Key words:

Value Added Tax - Late Payment Penalty - Services Performed for the Client- Local Sales Difference Subject to Basic Tax Rate.

Abstract

The Appellant instituted this case to overturn the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam No. (1196-2021-VD) in the case filed by the Appellee against the Appellant, ZATCA. The decision accepted the Plaintiff's case and overturned ZATCA's decision and its consequences related to the tax periods in question. The Appellant requests that the settlements be deducted, as they relate to services provided to the client, and therefore they are subject to VAT. In addition, the local sales Difference subject to the basic tax rate for emergency services were not discussed by the Primary Department. The Appellant concluded its appeal requesting that the appeal be accepted and the Primary Department's decision be overturned. The appellate Department determined that the appealed decision regarding the dispute in question was consistent with the law and was based on valid Grounds, where the primary department duly examined the dispute and reached the conclusion it reached in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision. Regarding the Appellant's objection to the item "Local Sales Difference Subject to the Basic Rate (Emergency Services and Others)," it was found that the Appellant had filed an objection to this item before the Primary Department. Since the Appellant maintains its claims contained in the appeal statement, and since the Primary Department has not expressed its opinion on this item, this Department concludes to accept the appeal regarding this item and remand the case to the Primary Department to reconsider it. Accordingly, this Department rules to: accept the appeal in form, and on merits, to dismiss the appeal with regard to the item "Local Sales Adjustments Subject to the Basic Rate", and accept the appeal with regard to the item "Local Sales Subject to the Basic Rate (Emergency Services and Others)".

Instruments:

- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday 25/01/1444 AH, corresponding to 23/08/2022 AD, First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed under Royal Decree No. (65474)



dated 23/12/1439 AH, in accordance with Paragraph (b) of Article 67 of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended under Royal Decree No. (M/113) dated 02/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 18/11/2021 AD, by Appellant\ ZATCA on the decision of First Appellate Department for Value Added and Excise Tax Violations and Disputes in Riyadh No. (1196-2021-VD) in the case filed by Appellee against Appellant, ZATCA.

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:

First: In Form: In form:

Accept the case in form.

Second: On merits:

Accepting the Plaintiff's claim and cancel ZATCA's decision and its consequences related to the tax periods in question.

Dissatisfied with the decision, the Appellant filed a statement of appeal to the Appellate Department, including its objection to the Department's decision to accept the Appellee's claim and to cancel its decision. The Appellant challenged the Primary Department's decision and requests that the settlements be deducted, as they relate to services provided to the client and are therefore subject to VAT. Furthermore, the Primary Department did not discuss the local sales Difference subject to the basic tax rate, nor did it determine their position. The appellant concluded its petition requesting to accept the appeal and overturn the Primary Department's decision.

On Tuesday 25/01/1444 AH corresponding to 04/01/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appeals Chamber may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appeals Chamber decision subject of appeal have been reviewed. After discussion and deliberation, the Chamber decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Rules of Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On merits, by reviewing the case files and examining the documents they contained, and after reviewing the memoranda and responses submitted by the two parties, Appeals Chamber found that the decision issued by Appeals Chamber ruled to accept the case filed by Plaintiff ... Company against ZATCA, and since the Appellant objects to the Primary Decision that accepted the Appellee's decision and canceled its decision. With regard to the item of "adjustments to local sales subject to basic tax rate", since the Appellant objects to the final reassessment notice for the tax period of February, July, June, November, August and December of 2019 AD and September and December of 2018 AD, which ruled to cancel its procedure and adopt the settlements related to the item of local sales subject to basic tax rate, and since the Appellant requested to deduct the settlements as they relate to services that were performed for the customer and therefore they are subject to VAT, and where it was found that the decision under appeal regarding the dispute under consideration was consistent with the law and was based on valid Grounds, where the primary



department duly examined the dispute and reached the conclusion it reached in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision. Therefore, Appeals Chamber concludes acknowledgment of appeal rejection the support of Appeals Chamber decision it reached in this clause, attributed to its Grounds.

Regarding the Appellant's objection to the item "Local Sales Difference Subject to the Basic Rate (Emergency Services and Others)," the Appellant objects to the Primary Decision on the Grounds that the Primary Department did not determine on the aforementioned item. The Department also established, based on the data and documents submitted in the case, that the Appellant had filed an objection to this item before the Primary Department. Since the Appellant maintains its claims contained in the appeal statement, and since the Primary Department has not expressed its opinion on this item, this Department concludes to accept the appeal regarding this item and remand the case to the Primary Department to reconsider it. Accordingly, this Department rules to.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Accept appeal of/ ZATCA in form to be submitted within the period specified by law.

Second: Dismiss appeal of ZATCA regarding the item of "Adjustments to local sales subject to the basic rate", and uphold the decision issued by First Appellate Department for Value Added Tax Violations and Disputes in Dammam No. (1196-2021-ER).

Third: Accept ZATCA's appeal regarding the adjustments to local sales subject to the basic tax rate (emergency services and others), overturn the decision delivered by the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, No. (1196-2021-VD), and remand the case to the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee:

First Appellate Department for Income Tax and Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-575)
Issued in Appeal No. (V-83986-2021)

Key words:

Value Added Tax - Financial Statements - Tax Returns - Revenue from Renting Residential Property - Late Payment Penalty - Misdeclaration Penalty

Abstract

The Appellant instituted this appeal challenging the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (570-2021-VR) in the case filed by the Appellant against the Appellee, which dismissed the case filed by the Plaintiff.....Company, Commercial Registration No., against ZATCA's decision regarding the Re-assessment for December 2018, imposing a VAT of SAR 1,948,115.45, a misdeclaration penalty of SAR 896,567.58, and a Late Payment Penalty of SAR 1,882,791.91. The Appellant requests that revenues generated from the rental of residential property be exempted from VAT. The Appellate Department found that, based on the data and documents submitted in the case, the difference in revenues for 2018 between the financial statements and tax returns represents revenues from the rental of residential property. The Appellate Department therefore accepts the appeal and overturns the decision of the Primary Department. Given that the fines are a result of the first item, they therefore should be cancelled consequently. Accordingly, this department concludes to accept the appeal and adjust the primary decision regarding the fines in dispute. Accordingly, this Department ruled to: accept the appeal in from, and on merits to accept the appeal regarding the revenues generated from the rental of residential property, the misdeclaration penalty and late payment penalty and adjust the Decision No. (570-2021-VR) of the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, and adjust the Appellee's decision.

Instruments:

- Articles (30), Paragraph (A.1) and (A. 2) of [Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Resolution No. \(3839\) dated 14/12/1438 AH.](#)
- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Saturday, 29/01/1444 AH, corresponding to 27/08/2022 AD, First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed under Royal Decree No. (65474) dated 23/11/1439 AH, in accordance with Article 67.5 of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended under Royal Decree No. (M/113) dated 02/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on



25/11/2021 AD, by... National ID No..... in his capacity as Appellant attorney, under POA No. (.....), against the Decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (VR-2021-570) in the Case filed by Appellant against Appellee . Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:

First: In Form: In form:

- To Accept case in form.

Second: On merits:

- Accept the Case filed by the Plaintiff Company,, C.R. No. (....) regarding the cancellation of ZATCA's decision concerning the reassessment of December 2018, which imposed a VAT of (SAR 1,948,115.45), a misdeclaration fine of (SAR 896,567.58), and a late payment fine of (SAR 1,882,791.91).

As this decision was not accepted by the Appellant, it submitted an Appeal Statement to the Appellate Department, objecting to Primary Committee's decision, which rejected its claim requesting annulment of Appellee's decision regarding the reassessment for December 2018 and the fines resulting from it, as she requests that the revenues resulting from the rental of residential property be considered exempt from VAT based on paragraph (b/1) of Article (30) of the Implementing Regulations of the Value-Added Tax Law. The Appellant concluded by requesting acceptance of the Appeal and annulment of Department's decision.

On Saturday, 29/01/1444 AH, corresponding to 27/08/2022 AD, First Appellate Department for Value Added and Excise Tax Violations and Disputes held a session to consider appeal submitted via video conference, based on Article 15.2 of Tax Dispute and Violation Committee Procedures, which stipulates that: "Sessions of Appeals Chamber may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appeals Chamber decision subject of appeal have been reviewed. After discussion and deliberation, Chamber decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Rules of Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On merits: The Appellate Department, having reviewed the case papers and examined the documents and papers contained therein, and after reviewing the memoranda and responses submitted by both parties, found that the Appellant objects to the Department's decision to dismiss its case regarding the Re-assessment of December 2018 AD, and the imposition of a Misdeclaration Penalty and a Late Payment Penalty regarding the item of revenues resulting from the rental of residential property. The Appellant's objects to the Resolution Department's decision on the Grounds that it is exempt from value added tax in accordance with the provisions of paragraph (b/1) of Article (30) of the Implementing Regulations of the Value Added Tax Law. Since the basis of the Appellant's decision is based on the lack of required documents, and since the Appellant submitted a trial balance for the company for the year 2018 AD, which included the account number related to the residential complex rental revenues in the amount of SAR 35,548,472, in addition to an analytical statement of those revenues, a sample of residential rental contracts, and an invoice issued to a customer by the company managing the project under the management and operation contract (the ... Real Estate Company) and the building permit, and



since it is established, according to the statements and documents submitted in the case, that the difference in revenues for the year 2018 AD between the financial statements and the tax returns is revenues from the rental of a residential property, and since Paragraph (1) of Article (30) of the Implementing Regulations of the Value Added Tax Law stipulates:

“Subject to the other express provisions of these Regulations, the following Supplies shall exempt from VAT: a) The Supply of real estate, whether commercial, residential or agricultural real estate or developed or undeveloped bare land, through a transfer of ownership or transfer of the right to dispose of the same as an owner; b) The Supply of residential real estate through lease or license” Paragraph (2) of the same Article further provides that: “For the purposes of this Article, Residential Real Estate means a permanent dwelling designed for human occupation, including: a) immovable property used or intended to be used as a home, such as houses, flats and apartments, b) other Real Estate intended as a Person’s primary residence, including residential accommodation for students or school pupils.” The Appellate Department therefore concludes to accept the appeal and overturns the primary decision.

Regarding the penalty for incorrect reporting and the fine for late payment, as well as Appellant's request to cancel those penalties that resulted from the final assessment notice for the tax period in question, since the aforementioned matter has led to the overturning of Department’s decision under appeal, and given that the penalties resulted from that decision, any related issues will follow the same ruling. Consequently, the Appellate Department concludes by accepting the appeal and modifying Department’s decision regarding the penalties under appeal.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Accept the Appeal filed by..... C. R. No. (...) in form to be submitted within the period specified by law.

Second: Accept the Appeal of /... Company C. R. No. (...) Regarding the Revenues from residential property rental, overturn the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (570-2021-VR), and cancel the Appellee 's decision.

Third: Accept the Appeal of /... Company C. R. No. (...) Regarding the Error in Declaration fine and late payment fine, modify the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (570-2021-VR), and modify the Appellee 's decision.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee:

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-576)
Issued in Appeal No. (V-
83989-2021)

Key words:

Value Added Tax - Late Payment Penalty - Misdeclaration - Tax Reassessment - Revenues from Renting Residential Property - Financial Statements - Tax Returns - Appeal dismissed.

Abstract

The Appellant requests the cancellation of Appellate Department decision No. (571-2021-VR) in the case filed by Appellant against Appellee, which dismissed the case of Plaintiff Company, Commercial Registration No., against ZATCA's decision regarding the Re-assessment for December 2019, imposing a VAT of SAR 2,544,312.36, a misdeclaration penalty of SAR 1,120,229, and a Late Payment Penalty of SAR 1,008,206.17. The Appellant requests that revenues generated from the rental of residential property be exempted from VAT. The Appellate Department found that, based on the data and documents submitted in the case, the difference in revenues for 2019 between the financial statements and tax returns represents revenues from the rental of residential property. The Appellate Department therefore accepts the appeal and overturns the decision of the Primary Department. With regard to the item of discounts granted to tenants, it was established that the appealed decision regarding the dispute under consideration was consistent with the law and was based on sound Grounds, where the primary department examined the dispute reaching its conclusion as stated in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision. Since the fine resulted from this, it should be consequently abolished. Accordingly, the Department ruled to: Accept the appeal in form, and on merits, accept the appeal partially regarding the item of local sales subject to basic tax rate (revenues from the rental of residential property), and cancel the Appellee's decision. Dismiss the appeal regarding the item of local sales subject to basic tax rate (discounts to tenants), and uphold the Appellee's decision. Accept the appeal regarding the misdeclaration penalty and late payment penalty, and modify the Appellee's decision.

Instruments:

- Articles (30), Paragraph (B.1) of [Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Resolution No. \(3839\) dated 14/12/1438 AH.](#)
- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.



On Saturday 25/01/1444 AH, corresponding to 23/08/2022 AD, First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed under Royal Decree No. (65474) dated 23/12/1439 AH, in accordance with Article 67.5 of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended under Royal Decree No. (M/113) dated 02/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 26/11/2021 AD, by ... National ID No..... in his capacity as Appellant attorney, under POA No. (.....), against the Decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (VR-2021-571) in the Case filed by Appellant against Appellee .

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:

First: In Form: In form:

- To Accept case in form.

Second: On merits:

- Accept the Case filed by the Plaintiff Company,, C.R. No. (...) regarding the cancellation of ZATCA's decision concerning the reassessment of December 2019, which imposed a VAT of (SAR 1,984,115.45), a msideclaration fine of (SAR 896,567.58), and a late payment fine of (SAR 1,882,791.91).

As this decision was not accepted by the Appellant, it submitted an Appeal Statement to the Appellate Department, objecting to Primary Committee's decision, which rejected its claim requesting annulment of Appellee's decision regarding the reassessment for December 2019 and the fines resulting from it, as it requests that the revenues resulting from the rental of residential property be considered exempt from VAT based on paragraph (b/1) of Article (30) of the Implementing Regulations of the Value-Added Tax Law, in addition to the fact that the other part of the added differences is represented by discounts for tenants based on credit notes to prove the reduction in the value of sales. The Appellant concluded by requesting acceptance of the Appeal and annulment of Department's decision.

On Saturday, 29/01/1444 AH, corresponding to 27/08/2022 AD, First Appellate Department for Value Added and Excise Tax Violations and Disputes held a session to consider appeal submitted via video conference, based on Article 15.2 of Tax Dispute and Violation Committee Procedures, which stipulates that: "Sessions of Appeals Chamber may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appeals Chamber decision subject of appeal have been reviewed. After discussion and deliberation, Chamber decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Rules of Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On merits: The Appellate Department, having reviewed the case papers and examined the documents and papers contained therein, and after reviewing the memoranda and responses submitted by both parties, found that the Appellant objects to the Department's decision to dismiss its case regarding the Re-assessment of December 2019 AD, and the imposition of a Misdeclaration Penalty and a Late Payment Penalty regarding the item of revenues resulting from the rental of residential property. The Appellant's objects to the Resolution Department's decision



on the Grounds that it is exempt from value added tax in accordance with the provisions of paragraph (b/1) of Article (30) of the Implementing Regulations of the Value Added Tax Law. Since the basis of the Appellant's decision is based on the lack of required documents, and since the Appellant submitted a trial balance for the company for the year 2019 AD, which included the account number related to the residential complex rental revenues in the amount of SAR 35,548,472, in addition to an analytical statement of those revenues, a sample of residential rental contracts, and an invoice issued to a customer by the company managing the project under the management and operation contract (the ... Real Estate Company) and the building permit, and since it is established, according to the statements and documents submitted in the case, that the difference in revenues for the year 2019 AD between the financial statements and the tax returns is revenues from the rental of a residential property, and since Paragraph (1) of Article (30) of the Implementing Regulations of the Value Added Tax Law stipulates: "Subject to the other express provisions of these Regulations, the following Supplies shall exempt from VAT: a) The Supply of real estate, whether commercial, residential or agricultural real estate or developed or undeveloped bare land, through a transfer of ownership or transfer of the right to dispose of the same as an owner; b) The Supply of residential real estate through lease or license" Paragraph (2) of the same Article further provides that: "For the purposes of this Article, Residential Real Estate means a permanent dwelling designed for human occupation, including: a) immovable property used or intended to be used as a home, such as houses, flats and apartments, b) other Real Estate intended as a Person's primary residence, including residential accommodation for students or school pupils." The Appellate Department therefore concludes to accept the appeal and overturns the primary decision.

With regard to the item of discounts to tenants, and since the Appellant requested that the primary decision be cancelled based on Grounds that the other part of the added differences is discounts for tenants under credit notes to prove the reduction in the value of sales.. Having determined that the appealed decision, subject matter of the current dispute, was consistent with law provisions and valid Grounds upon which it was taken and sufficient to support its ruling, since the issuing Department has carefully considered the disputed subject matter and concluded finally the decision reached in its ruling. Appellate Department did not find anything to be corrected or commented on with regard thereto in light of the raised defenses submitted before such Appellate Department. Accordingly, Appellate Department acknowledged that such defenses shall not affect the decision outcome. Therefore, Appeals Chamber concludes acknowledgment of appeal rejection the support of Appeals Chamber decision it reached in this clause, attributed to its Grounds.

Regarding the penalty for incorrect reporting and the fine for late payment, as well as Appellant's request to cancel those penalties that resulted from the final assessment notice for the tax period in question, since the aforementioned matter has led to the overturning of Department's decision under appeal, and given that the penalties resulted from that decision, any related issues will follow the same ruling. Consequently, the Appellate Department concludes by accepting the appeal and modifying Department's decision regarding the penalties under appeal.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Accept the Appeal filed by..... Trading Company, registered under C.R. No. in form to be submitted within the period specified by law.

Second: Accept the Appeal of /... Company Trading Company, registered under C.R. No. regarding the item of local sales subject to basic tax rate (revenues from leasing residential property), overturn Decision No. (571-2021-VR) of the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh City, and cancel the Appellee's decision.

Third: Dismiss the appeal of..... Trading Company, registered under C.R. No. regarding the item of local sales subject to basic tax rate (discounts to tenants), uphold Decision No. (571-2021-



VR) of the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh City, and uphold the Appellee's decision.

Fourth: Accept the Appeal of /... Company Trading Company, registered under C.R. No. Regarding the Error in Declaration fine and late payment fine, modify the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (571-2021-VR), and modify the Appellee 's decision.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee:

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-585)
Issued in Appeal No. (V-
89340-2021)

Key words:

Value Added Tax - Penalty for violating the provisions of the law - Local sales subject to basic tax rate - differences not subject to tax - Late Payment Penalty - misdeclaration penalty - Local purchases subject to tax period in dispute - Local sales - Appeal dismissed.

Abstract

The Appellant requested to cancel the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Governorate No. (1818-2021-VJ) in the case filed by the Appellant against the Appellee, which ruled to dismiss the Plaintiff's case regarding the item of local sales subject to basic tax rate, and regarding the item of local purchases subject to tax period in dispute (the first quarter of 2019 AD) and regarding the Late Payment Penalty and Misdeclaration Penalty, and to dismiss the Plaintiff's case regarding the imposition of a penalty for violating the provisions of the law- failure to provide the required documents for the tax period (the first quarter of 2019 AD) based on the fact that the examiner relied on deposits according to the company's bank account despite the existence of differences that are not subject to tax, represented by bank loans, in addition to submission of sufficient documents to prove the right to the deduction, and ended with a request to accept the appeal and cancel the Department's decision. The Appellate Department found that the decision under appeal regarding the dispute under consideration was consistent with the law and was based on valid Grounds, where the primary department duly examined the dispute and reached the conclusion it reached in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision. Regarding the item of local purchases subject to the basic tax rate, the Appellee deducted all amounts of local purchases due to failure to submit the required documents. The Appellant submitted a tax invoice of SAR 15,000, and it was proven that the invoice met the requirements for a tax invoice. Regarding the remaining amount claimed for deduction, the Appellant did not submit tax invoices. Therefore, the Appellate Department finds it appropriate to partially accept the appeal submitted in this item. Regarding the Misdeclaration Penalty and Late Payment Penalty, and the Appellant's request to cancel those penalties resulting from the final assessment notice for the tax period in question, the above item led to partial acceptance of the appeal, and since the penalties are associated with this item, they should be consequently abolished. Regarding the fine for violating the provisions of the Law or Regulations, since the Appellee did not submit the field detection report on which the contested penalty was based, and since the Appellant exercised due diligence in attaching a copy of the accounting system for revenues for the period from January 1, 2019 to March 31, 2019, and a tax invoice dated January 15, 2019, the Appellate Department found that the Appellant retained the tax invoices, books, records, and accounting documents. Accordingly, the Department ruled to: Accept the appeal in form, and on merits, dismiss the appeal related to local sales subject to the



basic tax rate, uphold the First Department's decision, accept the appeal related to local purchases subject to the basic tax rate, modify the Appellee's decision, accept the appeal related to the misdeclaration penalty and late payment penalty, accept the appeal related to the fine for violating the provisions of the Law or Regulations, cancel the Appellee's decision.

Instruments:

- Articles (45/3) and (49/7) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) on 14/12/1438 AH.](#)
- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Tuesday 03/02/1444 AH, corresponding to 30/08/2022 AD, First Appeals Chamber for Tax Violations and Disputes Value Added and Excise Goods, formed under Royal Decree No. (65474) dated 23/12/1439 AH, in accordance with Article 67.5 of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/1/1425 AH, as amended under Royal Decree No. (M/113) dated 02/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 28/12/2021 AD, by... National ID No..... Being owner of, C.R. No..... against the Decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (1818-2021- VJ) in the case filed by Appellant against Appellee .

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:

First: In Form: In form:

- To Accept case in form.

Second: On merits:

- Dismiss the Plaintiff's case regarding the item of local sales subject to basic tax rate for the tax period (first quarter of 2019) as the Defendant's decision was found valid.
- Dismiss the Plaintiff's case regarding the item of local purchases subject to basic tax rate for the tax period (first quarter of 2019) as the Defendant's decision was found valid.
- Dismiss the Plaintiff's case regarding the misdeclaration penalty for the tax period (first quarter of 2019) as the Defendant's decision was proven valid.
- Dismiss the Plaintiff's Case with regard to the late payment fine for the tax period (first quarter of 2019) as the Defendant's decision was found valid.
- Dismiss the Plaintiff's case regarding the imposition of a fine for violating the provisions of the law (failure to provide the required documents for the tax period (first quarter of 2019)).

Dissatisfied with the decision, the Appellant filed a statement of appeal to the Appellate Department, whereby it objected to the decision of the Primary Department to dismiss his claim to cancel the decision of the Appellee (ZATCA) regarding the Re-assessment of the first quarter of 2019 and the resulting fines. This was based on the fact that the examiner relied on deposits from the company's bank account, despite the existence of non-taxable differences in the form of bank loans. The Appellant claimed that he has submitted sufficient documents to prove the validity of deduction concluding his statement with a request to accept the appeal and overturn the Department's decision.

On Tuesday 03/02/1444 AH corresponding to 30/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of the Department may be held via modern technological means provided by the General Secretariat". Case file, along with all memoranda and



documents, was reviewed, as well as decision of the Primary Department under appeal. After discussion and deliberation, the Department decided to adjourn the session and issue a decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Rules of Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas, appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its regulatory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On merits: the Appellate Department, having reviewed the case papers and examined the documents and papers they contained, and after reviewing the memoranda and responses submitted by the two parties, and whereas the Appellant objects to the Department's decision to dismiss his case regarding the re-assessment of the first quarter of 2019, and the imposition of a Misdeclaration Penalty, a Late Payment Penalty, and a penalty for violating the provisions of the law, and with regard to the item of local sales subject to basic tax rate, and since the Appellant objects to the decision of the Primary Department on Grounds that the examiner relied on deposits credited to the company's bank account despite the existence of differences not subject to tax, which are bank loans, and since it was established that the decision under appeal regarding the dispute under consideration was consistent with the law and was based on valid Grounds, where the primary department duly examined the dispute and reached the conclusion it reached in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision. Therefore, Appeals Chamber concludes acknowledgment of appeal rejection the support of Appeals Chamber decision it reached in this clause, attributed to its Grounds.

Regarding the item of local purchases subject to the basic tax rate, the Appellant requests that the Primary Department's decision be overturned and the purchases are deducted based on the documents submitted. The Appellee deducted all amounts of local purchases due to failure to submit the required documents. The Appellant submitted a tax invoice for SAR 15,000. Moreover, it was found that the submitted invoice met the conditions of a tax invoice. Regarding the remaining amount claimed for deduction, the Appellant did not submit tax invoices based on paragraph (7) of Article (49) of the Implementing Regulations of the Value Added Tax Law, which states that input tax may not be deducted unless the taxable person has proof for the amount of input tax. Therefore, the Appellate Department concludes to accept part of the appeal filed regarding this item.

Regarding the misdeclaration penalty and late payment fine, as well as Appellant's request to cancel those penalties that resulted from the final assessment notice for the tax period in question, since the Department ruled to accept the appeal regarding the above item, and given that the penalties resulted from that decision, any related issues will follow the same ruling. Consequently, the Appellate Department concludes by accepting the appeal and overturning Department's decision regarding the penalties under appeal.

Regarding the fine for violating the provisions of the law or regulations. The Appellee imposed the fine based on the provisions of Paragraph (3) of Article (45) of the Implementing Regulations of the Value Added Tax Law, and since the Appellee did not submit the field detection report on which the contested fine was based, and since the Appellant exercised due diligence in attaching a copy of the accounting system for revenues for the period from 01/01/2019 to 31/03/2019, and a tax invoice dated 15/01/2019, the Appellate Department found that the Appellant retained the



tax invoices, books, records, and accounting documents. Therefore, the Department concluded to accept the appeal filed regarding this item and cancel the decision of the Primary Department. Therefore, and after due deliberation, the Department unanimously decided the following:

Decision:

First: In Form: Accept Appeal From/... National ID No..... in form to be submitted within the period specified by law.

Second: Dismiss the appeal of National ID No..... regarding local sales subject to the basic tax rate, and to uphold the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Governorate No. (1818-2021-VJ).

Third: Accept the Appeal of /... National ID No..... regarding local purchases subject to the basic tax rate, cancel the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (1818-2021-VJ), and cancel the Appellee's decision.

Fourth: Accept the Appeal of /... National ID No..... regarding the misdeclaration penalty and late payment fine, cancel the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (1818-2021-VJ), and cancel the Appellee's decision.

Fifth: Accept the Appeal of /... National ID No..... regarding the fine for violating the provisions of the law or regulations and cancel the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah No. (1818-2021-VJ), and cancel the Appellee's decision.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee:

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-586)
Issued in Appeal No. (V-
89354-2021)

Key words:

Value Added Tax - Local Sales Subject to the Basic Tax Rate - Local Purchases Subject to the Basic Tax Rate - Misdeclaration Penalty - Late Payment Penalty - Penalty for Violation of the Provisions of the Law or Regulation - Existence of Differences Not Subject to Tax - Appeal dismissed.

Abstract

The Appellant challenges the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah No. (1817-2021-VJ) in the case filed by the Appellant against the Appellee, which ruled as follows: Dismiss the Plaintiff's case regarding the item of local sales subject to basic tax rate for the tax period (fourth quarter of 2018 AD), the item of local purchases subject to basic tax rate for the tax period (fourth quarter of 2018 AD), the misdeclaration penalty for the tax period (fourth quarter of 2018 AD), the Late Payment Penalty for the tax period (fourth quarter of 2018 AD), the penalty for violating the provisions of the law (failure to provide the required documents for the tax period (fourth quarter of 2018 AD)), on Grounds that the examiner relied on deposits debited to the company's bank account despite the existence of differences not subject to tax, namely the bank loans, in addition to submission of sufficient documents to prove the right to the deduction, concluding his petition with a request to accept the appeal and cancel the Department's decision. The Appellate Department established, with regard to the items of local sales and purchases subject to basic tax rate, that the decision was consistent with the law and was based on valid Grounds, where the primary department duly examined the dispute and reached the conclusion it reached in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department. Given that the fines are associated with those items, they should be consequently abolished. As for the fine for violating the provisions of the law or the regulations, and since the Appellee did not submit the field detection report on which it based the fine subject to the objection, and since the Appellant exercised due care in attaching a copy of the accounting system for the revenues for the period from 01/10/2018 to 31/12/2018, and a tax invoice dated 19/01/ 2019. Accordingly, the Appellate Department found that the Appellant retained the tax invoices, books, records, and accounting documents...

this Department ruled to: Accept the appeal in form, and on merits to accept the appeal related to the imposition of a fine for violating the provisions of the law or regulation, overturn the primary decision, cancel the Appellee's decision and dismiss the appeal regarding the remaining items.

Instruments:



- Articles (45/3) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) dated 14/12/1438 AH.](#)
- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday 03/02/1444 AH, corresponding to 30/08/2022 AD, First Appeals Chamber for Tax Violations and Disputes Value Added and Excise Goods, formed under Royal Decree No. (65474) dated 23/12/1439 AH, in accordance with Article 67.5 of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/1/1425 AH, as amended under Royal Decree No. (M/113) dated 02/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 28/12/2021 AD, by... National ID No..... Being owner of, C.R. No..... against the Decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (1817-2021- VJ) in the case filed by Appellant against Appellee ..

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:

First: In Form: In form:

- To Accept case in form.

Second: On merits:

- Dismiss the Plaintiff's case regarding the item of local sales subject to basic tax rate for the tax period (fourth quarter of 2018) as the Defendant's decision was found valid.
- Dismiss the Plaintiff's case regarding the item of local purchases subject to basic tax rate for the tax period (fourth quarter of 2018) as the Defendant's decision was found valid.
- Dismiss the Plaintiff's case regarding the misdeclaration penalty for the tax period (fourth quarter of 2018) as the Defendant's decision was proven valid.
- Dismiss the Plaintiff's Case with regard to the late payment fine for the tax period (fourth quarter of 2018) as the Defendant's decision was found valid.
- Dismiss the Plaintiff's case regarding the imposition of a fine for violating the provisions of the law (failure to provide the required documents for the tax period (fourth quarter of 2018))..

Dissatisfied with the decision, the Appellant filed a statement of appeal to the Appellate Department, whereby it objected to the decision of the Primary Department to dismiss his claim to cancel the decision of the Appellee (ZATCA) regarding the Re-assessment of the fourth quarter of 2018 and the resulting fines. This was based on the fact that the examiner relied on deposits from the company's bank account, despite the existence of non-taxable differences in the form of bank loans. The Appellant claimed that he has submitted sufficient documents to prove the validity of deduction concluding his statement with a request to accept the appeal and overturn the Department's decision.

On Tuesday 03/02/1444 AH corresponding to 30/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appellate Department may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appellate Department decision subject of appeal have been reviewed. After discussion and deliberation, the Department decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Rules of Tax



Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On merits: the Appellate Department, having reviewed the case papers and examined the documents and papers they contained, and after reviewing the memoranda and responses submitted by the two parties, and whereas the Appellant objects to the Department's decision to dismiss his case regarding the re-assessment of the fourth quarter of 2018, and the imposition of a Misdeclaration Penalty, a Late Payment Penalty, and a penalty for violating the provisions of the law, and with regard to the item of local sales and purchases subject to basic tax rate, and since the Appellant objects to the decision of the Primary Department on Grounds that the examiner relied on deposits credited to the company's bank account despite the existence of differences not subject to tax, which are bank loans, in addition to submitting documents supporting validity of deduction; and since it was established that the decision under appeal regarding the dispute under consideration was consistent with the law and was based on valid Grounds, where the primary department duly examined the dispute and reached the conclusion it reached in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision. Therefore, Appeals Chamber concludes acknowledgment of appeal rejection the support of Appeals Chamber decision it reached in this clause, attributed to its Grounds.

Regarding the misdeclaration penalty and late payment fine, as well as Appellant's request to cancel those penalties that resulted from the final assessment notice for the tax period in question, since the Department ruled to dismiss the appeal regarding the above item, and given that the penalties resulted from that decision, any related issues will follow the same ruling. Consequently, the Appellate Department concludes to dismiss the appeal and uphold the Department's decision regarding the penalties under appeal.

Regarding the fine for violating the provisions of the law or regulations. The Appellee imposed the fine based on the provisions of Paragraph (3) of Article (45) of the Implementing Regulations of the Value Added Tax Law, and since the Appellee did not submit the field detection report on which the contested fine was based, and since the Appellant exercised due diligence in attaching a copy of the accounting system for revenues for the period from 01/10/2018 to 31/12/2018, and a tax invoice dated 19/12/2019, the Appellate Department found that the Appellant retained the tax invoices, books, records, and accounting documents. Therefore, the Department concluded to accept the appeal filed regarding this item and cancel the decision of the Primary Department. Therefore, and after due deliberation, Chamber unanimously decided the following:

Decision:

First: In Form: Accept Appeal From/... National ID No..... in form to be submitted within the period specified by law.

Second: Dismiss the appeal of National ID No..... regarding local sales subject to the basic tax rate, and to uphold the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Governorate No. (1817-2021-VJ).

Third: Dismiss the appeal of National ID No..... regarding local purchases subject to the basic tax rate, and to uphold the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Governorate No. (1817-2021-VJ).

Fourth: Dismiss the appeal of National ID No..... Regarding the misdeclaration penalty and late payment penalty, and upholding the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Governorate No. (1817-2021-VJ).



Fifth Accept the Appeal of /... National ID No..... regarding the fine for violating the provisions of the law or regulations and cancel the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah No. (1817-2021-VJ), and cancel the Appellee's decision.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee:

First Appellate Department for Income Tax and Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-588)
Issued in Appeal No. (V-79545-2021)

Key words:

Value Added Tax - Tax Reassessment - Misdeclaration Penalty - Late Payment Penalty - Local Sales and Purchases Subject to the Basic Tax Rate - Appeal dismissed.

Abstract

The Appellant requested to cancel the decision of the First Department to adjudicate the case filed by the Appellant against the Appellee, which ruled to dismiss the case of the Plaintiff ..., National ID No., to cancel ZATCA's decision regarding the Re-assessment of the first quarter of 2020 AD, and to impose a tax in the amount of SAR 29,226.55, and a misdeclaration penalty in the amount of SAR 17,325, and a late payment penalty in the amount of SAR 16,074.60. The Appellate Department established that the appealed decision was consistent with the law and was based on valid Grounds, where the primary department duly examined the dispute and reached the conclusion it reached in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department. Accordingly, this department ruled to: Accept the appeal in form, and, on merits, to dismiss the appeal regarding local sales and purchases subject to the basic tax rate and the misdeclaration penalty, and to uphold the First Department's decision.

Instruments:

- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Tuesday 18/01/1444 AH, corresponding to 16/08/2022 AD, First Appeals Chamber for Tax Violations and Disputes Value Added and Excise Goods, formed under Royal Decree No. (65474) dated 23/10/1439 AH, in accordance with Article 67(b) of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/1/1425 AH, as amended under Royal Decree No. (M/113) dated 2/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 26/12/2021 AD, by... National ID No..... against the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (593-2021- VSR) in the case filed by Appellant against Appellee .

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:

First: In Form: In form:



- To Accept case in form.

Second: On merits:

-Dismiss the case filed by the Plaintiff, CR. No. (...) regarding the cancellation of ZATCA's decision concerning the reassessment of the first quarter of 2020, which imposed a VAT of (SAR 29,226.55), a misdeclaration penalty of (SAR 17,325), and a late payment fine of (SAR 16,074.60).

Dissatisfied with the decision, the Appellant filed to the Appellate Department a statement of appeal that included its objection to the Department's decision to dismiss its objection to the Appellee's decision regarding local sales and purchases subject to the basic tax rate and the Misdeclaration Penalty, concluding with a request to accept the appeal and overturn the primary decision.

On Tuesday 18/01/1444 AH corresponding to 16/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appeals Chamber may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appeals Chamber decision subject of appeal have been reviewed. After discussion and deliberation, the Chamber decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Rules of Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On merits: the Appellate Department, having reviewed the case papers and examined the documents and papers they contained, and after reviewing the memoranda and responses submitted by the two parties, found that the decision delivered by the Primary Department dismissed the Plaintiff's claim regarding local sales and purchases subject to the basic tax rate, and the Misdeclaration Penalty for the tax period in question. It was found that the decision under appeal regarding the dispute under consideration was consistent with the law and was based on valid Grounds, where the primary department duly examined the dispute and reached the conclusion it reached in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision. Based on the foregoing, the Department concludes to reject the Appeal and uphold the decision of the Primary Department, as supported by its reasoning.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Accept Appeal From/... National ID No..... in form to be submitted within the period specified by law.

Second: dismiss the appeal related to local sales and purchases subject to the basic tax rate, and the Misdeclaration Penalty, and uphold the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (457-2021-VR).

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee:

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-591)
Issued in Appeal No. (V-
72408-2021)

Key words:

Value Added Tax - Local Sales Subject to the Basic Tax Rate - Final Assessment - Assessment Amount Does Not Match Actual Sales - Adding Financing Amount Difference to the Actual Value - Appeal Dismissed.

Abstract

The Appellant requests that the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Governorate No. (1365-2021-VJ) in the case filed by... against ZATCA be overturned. The appealed decision accepted the Plaintiff's claim and ordered the Defendant to deduct an amount of SAR 549,062.5 from the item of local sales subject to the basic tax rate for the tax period in question (the fourth quarter of 2019). ZATCA responded that the final reassessment was made based on information from an official source indicating that there were sales related to the disputed quarter that had not been declared. The Appellant ZATCA filed a statement of claim that included its objection to the Department's decision regarding the final assessment for the fourth quarter of 2019. The Appellant objects to the primary decision amending ZATCA's procedure and reducing the value of taxable local sales by SAR 549,063, relating to the sale of a property. The Appellant requests that the primary decision be overturned and the property value indicated in the deed issued by the Ministry of Justice be approved. Accordingly, the Appellee responded, as follows: "The assessment amount does not match the actual sales, as the difference in the financing amount was added to the actual property value". The Appellate Department found, with regard to the appeal filed by, and with regard to the appeal filed by ZATCA regarding the final assessment for the fourth quarter of 2019 that: the appealed decision regarding the dispute under consideration was consistent with the law and was based on sound Grounds, where the primary department examined the dispute reaching its conclusion as stated in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision. Accordingly, the Appellate Department ruled to: Accept the two appeals in form and dismiss them on merits.

Instruments:

- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.



On Tuesday 16/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed under Royal Decree No. (65474) dated 23/12/1439 AH, in accordance with Article 67.5 of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/16/1425 AH, as amended under Royal Decree No. (M/113) dated 02/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 27/09/2021 AD, by....., National ID No..... On his own behalf, against the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Governorate No. (1365-2021-VJ) in the case filed by... Against ZATCA.

The Department also convened to consider the appeal filed on 27/09/2021 AD by ZATCA against the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam No. ((1365-2021-VJ)) in the case filed by Against ZATCA.

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:

First: In Form: In form:

- Accept Plaintiff's case in form.

Second: On merits:

- Accept the Plaintiff's claim and ordered the Defendant to deduct an amount of SAR 549,062.5 from the item of local sales subject to the basic tax rate for the tax period in question (the fourth quarter of 2019).

As this decision was not accepted by either party, the Appellant Filed to the Appellate Department a statement of appeal that included its objection to the Department's decision regarding the final assessment for the fourth quarter of 2019. The Appellant stated that the tax payable for the quarter under review was erroneously declared in the tax return of Q1 of 2020.

Having presented the Appellant's statement to the Appellee (ZATCA), the Appellee responded as follows: "The final assessment was re-evaluated based on information from an official source indicating that there were sales related to the disputed quarter that had not been declared."

The Appellant, the Zakat, Tax and Customs Authority, in its capacity as the Defendant, submitted to the Appellate Department a memorandum of appeal, including its objection to the Department's decision regarding the final valuation for the fourth quarter of 2019. The Appellant (ZATCA) objects to the final decision amending ZATCA's procedure and reducing the value of subject local sales by SAR 549,063, related to the sale of a property. The Appellant requests that the initial decision be overturned and that the property value indicated in the deed issued by the Ministry of Justice be adopted.

Upon presentation of the Appellant's memorandum to the Appellee the Appellee responded as follows: "The assessment amount does not match the actual sales, as the difference in the financing amount was added to the actual property value."

On Tuesday) 18/01/1444 AH, corresponding to 16/08/2022 AD, First Appeals Chamber for Tax Violations and Disputes Value Added and Excise Goodsheld a session to consider appeal submitted via video conference, based on Article 15.2 of Tax Dispute and Violation Committee Procedures, which stipulates that: "Chamber sessions may be held via modern technical means provided by General Secretariat." Case file, all memoranda, and documents were reviewed, along with Primary Department's decision under appeal. After discussion and due deliberation, the Department decided to adjourn the case to deliver its decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Rules of Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.



Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: after the Appellate Department reviewed the case papers and examined the documents and papers contained therein, and after reviewing the memoranda and responses submitted by both parties, the Appellate Department found that the decision delivered by the Primary Department accepted the Plaintiff's claim and obligated the Defendant to deduct an amount of SAR 549,062.5 from the item of local sales subject to basic tax rate for the tax period in question (the fourth quarter of 2019). the appealed decision regarding the dispute under consideration was consistent with the law and was based on sound Grounds, where the primary department examined the dispute reaching its conclusion as stated in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision. Based on the above, the Department concluded by dismissing the appeal submitted by..... Company and uphold the Primary Decision with regard to its conclusions based on the Grounds stated therein.

Regarding the appeal submitted by ZATCA regarding the final assessment for the fourth quarter of 2019, the Appellant (ZATCA) objects to the final decision modifying ZATCA's procedure and reducing the value of subject local sales by an amount of SAR 549,063, related to the sale of a property. The Appellant requested that the primary decision be overturned and to adopt the property value indicated in the deed issued by the Ministry of Justice. It was found that the decision under appeal regarding the dispute under consideration was consistent with the law and was based on valid Grounds, where the primary department duly examined the dispute and reached the conclusion it reached in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision. Based on the foregoing, this Department concludes to dismiss the appeal filed by ZATCA and uphold the Primary Department's decision based on the Grounds stated therein.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Regarding the appeal of... holder of National ID No.,

1. accept Appeal in form.
2. dismiss the appeal regarding local sales subject to the basic rate and uphold the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah No. (1365-2021-VJ).

Second: With regard to ZATCA Appeal:

1. accept Appeal in form.
2. dismiss the appeal regarding local sales subject to the basic rate and uphold the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah No. (1365-2021-VJ).

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee:

First Appellate Department for Income Tax and Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-592)
Issued in Appeal No. (V-78323-2021)

Key words:

Value Added Tax - Misdeclaration Penalty - Late Payment Penalty - Amending the item of Sales Subject to the Basic Rate for the Tax Period in Question.

Abstract

The Appellant requested to overturn the decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (754-2021-VSR) in the case filed by the Appellant against the Appellee, ZATCA. The decision dismissed the Plaintiff's case regarding the modification of the sales item subject to the basic rate for the tax period in question, and dismissed the Plaintiff's case regarding the misdeclaration penalty and late payment penalty for the tax period in question on Grounds that the same sale was declared in the first-quarter return as the sale proceeds have been received on 31/03/2019, which precedes the date of supply. ZATCA responded that the deed was cleared on 01/04/2019, which is the reason for its subjection. The Appellate Department established that the transfer of ownership took place on 25/07/1440 AH, corresponding to 01/04/2019, which represents the date of "supply," while the "sales consideration" was received by check number in the amount of SAR 718,000 on 31/03/2019. The tax fell due on the date of "issuance of the invoice," "supply," or "receipt of the consideration in full or in part," whichever is earlier. Since the date of receipt of the consideration, which is 31/03/2019 is the earlier date, then the declaration must be filed during the first quarter. It was found that the total deposits during the period were SAR 149,132.80, i.e. less than the value of the property in question, and that most of it is a credit to the account from the Appellant's accounts, which confirms the validity of what he paid. Therefore, the Appellate Department decided to accept the appeal and overturn the decision of the Second Department. Given that the penalties for error in declaration and late payment are associated with this item, they should be cancelled accordingly. Therefore, the Appellate Department decided to accept the appeal and overturn the decision. Accordingly, the Appellate Department ruled to Accept the appeal in form, and on merits, to accept the appeal regarding subjecting the disputed amount to 5% rate considering it as sales, which relates to the misdeclaration penalty and late payment penalty, and to overturn the decision of the Second Department.

Instruments:

- Article 23.1 of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. M/51 dated 05/03/1438 AH.](#)
- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:





Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday 18/01/1444 AH, corresponding to 16/08/2022 AD, First Appeals Chamber for Tax Violations and Disputes Value Added and Excise Goods, formed under Royal Decree No. (65474) dated 23/10/1439 AH, in accordance with Article 67(5) of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/1/1425 AH, as amended under Royal Decree No. (M/113) dated 2/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 19/10/2021 AD, by... National ID No..... Against the decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (754-2021- VSR) in the case filed by Appellant against Appellee .

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:

- To Accept case in form.
- Dismiss the Plaintiff's claim regarding amending the sales item subject to the basic rate for the tax period in question.
- Dismiss the Plaintiff's claim regarding the misdeclaration penalty and late payment fine for the tax period in question.

Dissatisfied with the decision, the Appellant filed an appeal to the Appellate Department, which included his objection to the primary decision under appeal. Regarding the sales item subject to the 5% rate, the Appellant instituted this appeal to cancel the Department's decision to add the property sale value to the "sales" item, since the same sale was declared in the first-quarter return where the sale price was received on 31/03/2019, which precedes the date of supply. The Appellee states that, based on information from the Ministry of Justice, the deed was cleared on 01/04/2019, which was the reason for adding it to the sales item. Regarding the misdeclaration penalty and late payment fine, the Appellant requested that they be cancelled accordingly

On Tuesday 18/01/1444 AH corresponding to 16/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appeals Chamber may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appeals Chamber decision subject of appeal have been reviewed. After discussion and deliberation, the Chamber decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Rules of Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: the Appellate Department, having reviewed the case papers and examined the documents and papers they contained, and after reviewing the memoranda and responses submitted by the two parties, found that the decision delivered by the Primary Department dismissed the Plaintiff's claim regarding the adjustment of the item of sales subject to the basic rate for the tax period in question, and the misdeclaration penalty and late payment fine. Regarding the item of sales subject to the basic rate, the Appellant objects to the primary decision because the same sale was declared in the first quarter declaration based on receipt of the consideration on 31/03/2019 AD, which precedes the date of supply. Meanwhile, the Appellee states that, based



on information from the Ministry of Justice, the deed was enforced on 01/04/2019 AD, which is the reason for adding it to the sales item. The Appellate Department found that the transfer of ownership was on 25/07/1440 AH, corresponding to 01/04/2019 AD, which represents the date of "supply," while the "sales consideration" was received by check number in the amount of SAR 718,000, dated 31/03/2019, and the tax is due on the date of "issuance of the invoice," "supply," or "receipt of the consideration in full or in part," whichever is earlier. Since the date of receipt of the consideration, 03/31/2019, is the earlier date, this means that the declaration must be made during the first quarter, based on the text of paragraph (1) of Article (23) of the Common VAT Agreement of the GCC States. This was the case. The Appellant submitted the tax return for the first quarter of 2019 to prove this. Upon reviewing the return, it was found that the total sales declared during the quarter were SAR 1,338,000, an amount exceeding the disputed amount. The Appellant also submitted a bank statement for the second quarter, covering the period from 01/04/2019 to 30/06/2019, to prove that the disputed amount was not received during the second quarter. Upon reviewing the statement, it was found that the total deposits during the period was SAR 149,132.80, which is less than the value of the property in dispute, and most of it was replenishment to the account from the Appellant's accounts, which confirms the validity of his defense. Accordingly, the Appellate Department concludes to accept the appeal and cancel the decision of the Second Department to Adjudicate VAT Violations and Disputes in Riyadh.

As for the misdeclaration penalty and late payment fine, they arose as a result of the failure to pay the tax due within the legally-prescribed period resulting from the Appellee's amendment to the adjustment of the Appellant's declaration for the period in dispute by the Appellee. The adjustment resulted in the tax being calculated at a higher amount than the amount due, as previously stated. The Appellate Department concluded to accept the the Appellant's appeal regarding sales subject to the basic rate, and since the two penalties resulted from this item, this Appellate Department decided to accept the appeal and overturn the decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Accept the Appeal of /... National ID No..... In form be submitted during regulatory period.

Second: accept the appeal regarding adding the disputed amount to the sales item subject to the 5% rate, overturn the decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (754-2021-VSR), and cancel the Appellee's decision.

Third: accept the appeal related to the misdeclaration penalty and late payment fine, overturn the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (754-2021-VSR), and cancel the Appellee 's decision.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee:

First Appellate Department for Income Tax and Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-593)
Issued in Appeal No. (V-79891-2021)

Key words:

Value Added Tax - Health Services Provided to Employees - Late Payment Fine - Returns from Local Sales Subject to the Basic Rate - Appeal Dismissed.

Abstract

The Appellant instituted this case to overturn the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam No. (1133-2021-VD) in the case filed by the Appellant against the Appellee. The decision ruled to accept the Plaintiff's claim and overturn the Defendant's decision regarding returns from local sales subject to the basic rate, and to accept the Plaintiff's claim and cancel the fine in question, and to dismiss all other requests. The Appellant requests that the settlements be deducted, as they relate to services provided to the client, and therefore are subject to VAT. The Appellant also requests that the Primary Department's decision regarding the item of health services provided to employees be annulled, considering the disputed services, amounting to SAR 23,476.32, subject to the basic tax rate and treating them as a supply. The Appellant asserts that the disputed services represent legal obligations that must be fulfilled. It was found that the decision under appeal regarding the dispute under consideration was consistent with the law and was based on valid Grounds, where the primary department duly examined the dispute and reached the conclusion it reached in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision. Accordingly, this department ruled to: Accept the appeal in form, and on merits, to dismiss the appeal of ZATCA, and uphold the decision of the Primary Department.

Instruments:

- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Tuesday 18/01/1444 AH, corresponding to 16/08/2022 AD, First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed under Royal Decree No. (65474) dated 23/12/1439 AH, in accordance with Paragraph (b) of Article 67 of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended under Royal Decree No. (M/113) dated 02/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 28/11/2021 AD, by Appellant\ ZATCA on the decision of First Appellate



Department for Value Added and Excise Tax Violations and Disputes in Riyadh No. (1133-2021-VD) in the case filed by Appellant against Appellee.

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:

First: In Form: In form:

- To Accept case in form.

Second: On merits:

- Accept the Plaintiff's claim and cancel the Defendant's decision regarding returns on local sales subject to the basic rate.
- Accept the Plaintiff's claim and cancel the fine subject matter of dispute.
- All other requests shall be denied.

Dissatisfied with the decision, the Appellant filed an appeal to the Appellate Department, whereby it objected to the Department's decision regarding the final assessment for October 2019. The Department's decision ruled to overturn the Appellant's action and approve the settlements related to the local sales item subject to the basic rate. The Appellant requests that the settlements be deducted, as they relate to services provided to the customer and are therefore subject to VAT. The Appellant also requests that the Primary Department's decision regarding the health services provided to employees be overturned, considering the disputed services, amounting to SAR 23,476.32, subject to the basic rate and treating them as a nominal supply. The Appellant maintained that the disputed services represent legal obligations that must be fulfilled. The Appellant requests that the Primary Department's decision regarding the late payment penalty be overturned, concluding with a request to accept the appeal and overturn the Department's decision.

On Tuesday 18/01/1444 AH corresponding to 16/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appeals Chamber may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appeals Chamber decision subject of appeal have been reviewed. After discussion and deliberation, the Chamber decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Rules of Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas, appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its regulatory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On merits: the Appellate Department, having reviewed the case papers and examined the documents and papers they contained, and after reviewing the memoranda and responses submitted by the two parties, found that the decision delivered by the Primary Department accepted the Plaintiff's claim and cancelled the Defendant's decision with regard to the local sales returns subject to the basic tax rate, and accepted its claim regarding the late payment fine for the tax period in question. It was found that the decision under appeal regarding the dispute under consideration was consistent with the law and was based on valid Grounds, where the primary department duly examined the dispute and reached the conclusion it reached in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department,



this department concluded to uphold the primary decision. Based on the foregoing, the Department concludes to reject the Appeal and uphold the decision of the Primary Department, as supported by its reasoning.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Accept Appeal From/... of ZATCA in form for being submitted within the period specified by law.

Second: Dismiss ZATCA's appeal and uphold the Decision No. (1133-2021-VD) of the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee:

First Appellate Department for Income Tax and Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-597)
Issued in Appeal No. (V-81767-2021)

Key words:

Value Added Tax - Late Payment Penalty - Local Sales Subject to the Basic Rate - Reinsurance Commission - Insurance Contract Not Related to the Primary Insurance Contract - Appeal Dismissed.

Abstract

The Appellant instituted this case to cancel the decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (732-2021-VSR) in the case filed by the Appellant against the Appellee, which ruled to dismiss the Plaintiff's case regarding local sales subject to the basic rate for the tax period in question, on Grounds that the "reinsurance commission" received from it was included in the "sales" item because it resulted from another insurance contract not related to the primary insurance contract. The Appellant concluded its appeal with a request to accept the appeal and annul the Department's decision. The Appellate Department found that the decision was based on sound Grounds, where the primary department duly examined the dispute to reach the conclusion it reached in its operative part. The Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department. Therefore, this department concluded to uphold the primary decision. Accordingly, the Appellate Department ruled to: **Accept the appeal in form, and dismiss it on merits.**

Instruments:

- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday 18/01/1444 AH, corresponding to 16/08/2022 AD, First Appeals Chamber for Tax Violations and Disputes Value Added and Excise Goods, formed under Royal Decree No. (65474) dated 23/12/1439 AH, in accordance with Article 67(b) of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/1/1425 AH, as amended under Royal Decree No. (M/113) dated 2/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 11/11/2021 AD, by ... C. R. No. (...) against the decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (732-2021- VSR) in the case filed by Appellant against Appellee .

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:



First: In Form: In form:

- To Accept case in form.

Second: On merits:

- dismiss the Plaintiff's claim regarding local sales subject to the basic rate for the tax period in question.

Dissatisfied with the decision, the Appellant filed to the Appellate Department an appeal containing its objection to the primary Department to dismiss its objection to the Appellee's decision regarding the reinsurance commission. The Appellant requested that the primary decision regarding adding the amounts received from the reinsurance contract be overturned, as the "reinsurance commission" received was included in the "sales" item because it resulted from another insurance contract not related to the primary insurance contract. The Appellant concluded its appeal statement requesting that the appeal be accepted and the Department's decision be cancelled.

On Tuesday 18/01/1444 AH corresponding to 16/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appeals Chamber may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appeals Chamber decision subject of appeal have been reviewed. After discussion and deliberation, the Chamber decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Rules of Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas, appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its regulatory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On merits: the Appellate Department, having reviewed the case papers and examined the documents and papers they contained, and after reviewing the memoranda and responses submitted by the two parties, found that the decision delivered by the Primary Department dismissed the Plaintiff's claim regarding local sales subject to the basic tax rate for the tax period in question. It was found that the decision under appeal regarding the dispute under consideration was consistent with the law and was based on valid Grounds, where the primary department duly examined the dispute and reached the conclusion it reached in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision. Based on the foregoing, the Department concludes to reject the Appeal and uphold the decision of the Primary Department, as supported by its reasoning.

For the aforementioned Grounds, and after legal deliberation, the Department unanimously decided as follows:

Decision:

First: In Form: Accept Appeal From..... Company C. R. No. (...) in form to be submitted within the period specified by law.



Second: Dismiss the appeal regarding adding the "reinsurance commission", uphold the decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, No. (732-2021-VSR).

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee:

First Appellate Department for Income Tax and Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-599)
Issued in Appeal No. (V-81778-2021)

Key words:

Value Added Tax - Late Payment Penalty - Local Sales Subject to the Basic Rate for the Tax Period in Question - Reinsurance Commission - Appeal Dismissed.

Abstract

The Appellant instituted this case to Overturn the Decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, No. (738-2021-VSR), in the case filed by the Appellant against the Appellee, which dismissed the Plaintiff's claim regarding local sales subject to the basic rate for the tax period in question. The Appellant requests the annulment of the Primary Department's decision regarding adding the amounts received from the reinsurance contract, as the "reinsurance commission" received from it was included in the "sales" item because it resulted from another insurance contract not related to the primary insurance contract. Regarding the item of contracts that did not meet the conditions of zero-rated contract, the Appellant requested to overturn the primary decision regarding this item, on Grounds that those amounts were subjected to the "sales" item because they met the conditions for zero-rate contracts. The Appellant concluded with a request to accept the appeal and overturn the primary decision. The Appellate Department found that the decision was based on sound Grounds, where the primary department duly examined the dispute to reach the conclusion it reached in its operative part. The Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department. Therefore, this department concluded to uphold the primary decision. Accordingly, the Appellate Department ruled to: Accept the appeal regarding the reinsurance commission in form and dismiss it on merits, uphold the primary decision regarding this item, dismiss the appeal regarding adding "contracts that did not meet the conditions of zero-rated contracts" and uphold the primary decision regarding this item.

Instruments:

- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Tuesday 18/01/1444 AH, corresponding to 16/08/2022 AD, First Appeals Chamber for Tax Violations and Disputes Value Added and Excise Goods, formed under Royal Decree No. (65474) dated 23/12/1439 AH, in accordance with Article 67.5 of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/1/1425 AH, as amended under Royal Decree No. (M/113) dated 2/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on



28/11/2022 AD, by Company C. R. No. (...) against the decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. (738-2021- VSR) in the case filed by Appellant against Appellee .

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of Resolution Chamber ruled the following:

First: In Form: In form:

- To Accept case in form.

Second: On merits:

- dismiss the Plaintiff's claim regarding local sales subject to the basic rate for the tax period in question.

Dissatisfied with the decision, the Appellant filed to the Appellate Department an appeal containing its objection to the primary Department to dismiss its objection to the Appellee's decision regarding the reinsurance commission. The Appellant requested that the primary decision regarding adding the amounts received from the reinsurance contract be overturned, as the "reinsurance commission" received was included in the "sales" item because it resulted from another insurance contract not related to the primary insurance contract. Regarding the item of contracts that did not meet the conditions of zero-rated contract, the Appellant requested to overturn the Department's decision regarding the amounts received from those contracts, as they were subject to the "sales" item, and met the conditions for zero-rated contracts. The Appellant concluded its appeal statement requesting that the appeal be accepted and the Department's decision be cancelled.

On Tuesday 18/01/1444 AH corresponding to 16/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appeals Chamber may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appeals Chamber decision subject of appeal have been reviewed. After discussion and deliberation, the Chamber decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Rules of Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On merits: the Appellate Department, having reviewed the case papers and examined the documents and papers they contained, and after reviewing the memoranda and responses submitted by the two parties, found that the decision delivered by the Primary Department dismissed the Plaintiff's claim regarding local sales subject to the basic tax rate for the tax period in question. It was found that the decision under appeal regarding the dispute under consideration was consistent with the law and was based on valid Grounds, where the primary department duly examined the dispute and reached the conclusion it reached in its operative part; and since the Appellate Department did not find any observation or comment about the appealed decision that requires further modification in light of the arguments submitted to this department, this department concluded to uphold the primary decision. Based on the foregoing, the Department



concludes to reject the Appeal and uphold the decision of the Primary Department, as supported by its reasoning.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Accept the Appeal filed by..... C. R. No. (...) in form to be submitted within the period specified by law.

Second: Dismiss the appeal regarding the "reinsurance commission", uphold the decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, No. (738-2021-VSR).

Third: Dismiss the appeal regarding the “contracts that did not meet the conditions of zero-rated contracts”, and uphold the decision of the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, No. (738-2021-VSR).

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-610)
Delivered in Appeal No. (V-
42628-2021)

Key words:

Value Added Tax - Late Payment Penalty - Dismissal of Appeal.

Abstract

Appellant requests annulling decision rendered by the Primary Department that obligates Appellant to pay an amount outlining VAT and the arising fine for periods (July, September, November and December of 2018, as well as March, April, May, June, September and October of 2019). Appellant bases this request on the economic hardships that Appellant faces. ZATCA responded that the arguments raised by Appellant in its appeal do not differ from those previously raised before the Primary Committee, to which ZATCA had already answered at that time. Thereupon, Appellant requests the Department to uphold the decision. The Appellate Department found that the contested decision regarding the dispute, subject matter of consideration, is consistent with provisions of the Law and is based on sound reasoning sufficient to support its ruling, since the Primary Department thoroughly examined the dispute and reached the conclusion stated in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection in light of the arguments raised before it. Therefore, this Department concludes that such arguments have no effect on the outcome of decision. This Department ruled to Dismiss the appeal regarding (VAT and Arising Fines) item and uphold the decision rendered by the Second Department to Adjudicate Value Added Tax Violations and Disputes

Instruments:

- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Monday 24/01/1444 AH corresponding to 22/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed by Royal Decree No. (65474) dated 23/12/1439 AH, in accordance with Paragraph (5) of Article (67) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, convened at its headquarters in Riyadh, to consider appeal filed on 21/03/2021 AD by ... National ID No..... in his capacity as the legal representative of Appellant under POA No. (42311), against Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VSR-2021-44) in the Case filed by Appellee against Appellant.



Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of the Primary Department ruled the following:

First: In Form: In form:

To Accept case in form.

Second: On merits:

- Oblige Defendant (... Sons Company), C.R. No. (...), to pay Plaintiff (ZATCA) an amount of SAR 28,855,197.71 (twenty-eight million, eight hundred fifty-five thousand, one hundred ninety-seven Riyals and seventy-one Halalas) that outlines VAT and the late payment fines for tax periods subject matter of the Case.

Dissatisfied with this decision, Appellant submitted a statement of appeal to the Appellate Department, objecting to Committee's decision that obliged Appellant to pay an amount that outlines VAT and the arising fines for periods (July, September, November and December of 2018, and March, April, May, June, September and October of 2019). Appellant requests to be exempted from tax and related fines due to the current financial situation of the Company and the ongoing financial restructuring procedures under Bankruptcy Law, in addition to the severe losses caused by COVID-19 Pandemic that affected the entire world. In addition, Appellant concluded by requesting the Department to accept and annul Committee's decision.

Having presented the statement of appeal to Appellee, Appellee submitted an answer summarized as follows: "The arguments raised by Appellant in the appeal do not differ from those raised before the Primary Committee, to which ZATCA had already answered at that time. Therefore, Appellant requests the Department to uphold Primary Committee's decision".

On Sunday, 17/11/1442 AH corresponding to 27/06/2021 AD, at 04:00 PM, the First Appellate Department for Value Added Tax and Excise Goods Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Department sessions may be held via modern technical means provided by General Secretariat." Case file, all memorandums, documents and Primary Department's decision, subject matter of appeal were reviewed. After discussion and deliberation, the Department decided to adjourn Case consideration to a later session, with the parties to be notified to appear.

On Sunday, 24/11/1442 AH corresponding to 04/07/2021 AD, the First Appellate Department for Value Added Tax and Excise Goods Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Circuit sessions may be held using modern technological means provided by the General Secretariat". Case file, all memorandums, documents and Primary Department's decision, subject matter of appeal were reviewed. Having called the parties, the Department found that ..., holder of National ID No. (...) appeared under an expired power of attorney, and stated that the failure to renew the power of attorney was due to the lack of quorum in Company's Board of Directors. In addition, (...), holder of National ID No. (...), appeared in his capacity as the representative of Defendant (ZATCA) under Authorization Letter No. (...) dated 04/06/1442 AH issued by Vice Governor for Legal Affairs, a copy of which is attached in Case file. After discussion and deliberation, the Department decided to instruct the Company to provide evidence on initiating financial restructuring procedures and to upload it to the e-system, and to adjourn Case consideration to a later session.

On Monday 24/01/1444 AH corresponding to 22/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Circuit sessions may be held using modern technological means provided by the General Secretariat". Case file, all memorandums, documents and Primary Department's decision, subject matter of appeal were reviewed. Therefore, the Department decided to adjourn the session for further study, deliberation, and adjudication.



Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: The Appellate Department, having taken cognizance of Case documents, and examined the memorandums and answers provided by both parties, found that the primary decision obliged Appellant to pay an amount that outlines VAT and fines for periods (July, September, November and December of 2018, as well as March, April, May, June, September and October of 2019). Appellant contested the primary decision on the ground of financial hardship. Since the contested decision was based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any grounds for reconsideration or objection based on the arguments raised before it. Therefore, this Department determines that these arguments did not affect the outcome of decision. Therefore, the Department dismisses the appeal and upholds the primary decision based on its Grounds.

Thereupon, and after legal deliberation, the Department unanimously decided as follows:

Decision:

First: In Form: Accept the appeal filed by (... Sons Company), C.R. No. (...) in form for being filed within the statutory period.

Second: Dismiss the appeal filed by (... Sons Company), C.R. No. (...), regarding (VAT and Arising Fines), and uphold First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VSR-2021-44).

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee
First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-611)
Delivered in Appeal No. (V-
67316-2021)

Key words:

Value Added Tax – Reassessment of Tax Return – Application of Standard-Rated VAT on Contract Supplies – Standard-Rated Local Sales – Late Payment Fine – Settlement of Accounts for Government Projects – Denial of Intent, Evasion Suspicion and Willful Violation of Statutory Provisions – Proof of Dispute Resolution.

Abstract

Appellant requests annulling Department's decision to dismiss the claim regarding the reassessment of tax return for December 2018 and the arising fines, requesting annulling Committee's decision on the ground that the sales were related to payment certificates under government projects, as such contracts were zero-rated and concluded prior to 30/05/2017 AD. In addition, Appellant concluded by requesting the Department to accept the appeal and annul Committee's decision. ZATCA responded by requesting the application of standard-rated VAT on contract supplies due to failure to meet the conditions for applying special provisions and Appellant's failure to provide the supporting documents for its tax procedure. The Appellate Department found, in relation to (Standard-Rated VAT Local Sales) item, that the contested decision was based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection based on the arguments raised before it. Therefore, this Department determines that these arguments did not affect the outcome of decision, dismisses the appeal and upholds the ruling of Primary Department based on its stated Grounds. Regarding Appellant's objection to levying VAT on an amount of SAR 9,256,787 pertaining to the settlement of accounts for government projects, and since Appellant provided evidence indicating project disruption, in addition to correspondences and letters exchanged with the Ministry of Municipal and Rural Affairs, such submissions support the validity and soundness of Appellant's position. Therefore, the Appellate Department accepts the appeal regarding this item and annuls the primary decision. Regarding Appellant's objection to levying VAT on an amount of SAR 3,046,409.11, and since Appellant stated that communication was made with the government agency that owns the project in order to execute an amended contract with project owner, and that Appellant acknowledged the validity of tax and confirmed its remittance to Appellee. Therefore, the Appellate Department concludes that the dispute between the parties regarding this item is deemed resolved. Regarding Appellant's objection to (Revenues Subject to VAT in the Amount of SAR 2,422,423) item, the Department found that neither Appellee nor the Primary Department presented their respective positions regarding this item. Therefore, the Appellate Department accepts the appeal regarding this item and remands the matter to the Primary Department due to the lack of evidence that the Primary Department has exhausted its jurisdiction to consider it. Regarding Appellant's objection to late payment fine, and given that Appellant exercised due diligence by communicating with and asking the government



agency to pay the principal tax, which negates any indication of intent, evasion, or willful violation of the provisions of Law and the Implementing Regulations. Therefore, the Department accepts the appeal regarding this item and annuls the primary decision. The effect of this is as follows: Accept the appeal in form. On Merits: Dismiss the appeal regarding standard-rated VAT local sales, establish resolution of the dispute between the parties regarding standard-rated VAT local sales related to revenues from certified statements for government projects issued to the client, accept all other aspects of the appeal and annul the decision rendered by the First Department to Adjudicate Value Added Tax Violations and Disputes.

Instruments:

- Article (79) of [the Implementing Regulations of the Law of Value Added Tax issued by ZATCA Board of Directors Resolution No. \(3839\) dated 14/12/1438 AH.](#)
- Article (15.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Tuesday 25/01/1444 AH corresponding to 23/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed by Royal Decree No. (65474) dated 23/12/1439 AH, in accordance with Paragraph (5) of Article (67) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, convened at its headquarters in Riyadh to consider the appeal filed on 26/08/2021 AD by ... Company and Sons for Trading, Industry and Contracting, C.R. No. (...) regarding First Department to Adjudicate Value Added Tax Violations and Disputes in Damman Decision No. (VD-2021-191) in the Case filed by Appellant against Appellee.

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of the Primary Department ruled the following:

First: In Form:

- Accept the Case in form.

Second: On merits:

- Dismiss the Case filed by ... Company and Sons for Trading, Industry and Contracting, C.R. No. (...) Against ZATCA.

Dissatisfied with this decision, Appellant submitted a statement of appeal to the Appellate Department, objecting to the primary decision that dismissed its claim in which Appellant requests annulling decision of Appellee (ZATCA) regarding the reassessment for September 2018 and the arising fines. Appellant requests annulling primary decision on the ground that its sales pertain to interim invoices of government projects, arguing that they are subject to zero-rated percentage and were made prior to 30/05/2017 AD. In addition, Appellant concluded the statement of claim by requesting the Department to accept the appeal and annul Committee's decision.

In response to Appellant statement, Appellee submitted a counter-argument, summarized as follows: "ZATCA requests that the standard-rated VAT is applied to contract supplies due to failure to meet the conditions for applying transitional provisions stipulated in Article (79) of the Implementing Regulations and Plaintiff's failure to provide the supporting documents for its tax procedure".

On Tuesday 18/09/1443 AH corresponding to 19/04/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Department sessions may be held via modern technical



means provided by General Secretariat.” Case file, all memorandums, documents and Primary Department’s decision, subject matter of appeal were reviewed. After discussion and deliberation, the Department decided to adjourn hearing of the Case for Tuesday, 01/11/1443 AH corresponding to 31/05/2022 AD, at 01:00 PM, with notification to be sent to the parties to appear.

On Wednesday 09/11/1443 AH, corresponding to 01/06/2022 AD, First Appellate Department for Value Added and Excise Goods Tax Violations and Disputes held a session to consider the appeal submitted via video conference, based on Paragraph (15.2) of Tax Dispute and Violation Committee Procedures, which stipulates that: "Department sessions may be held via modern technical means provided by General Secretariat.” Case file, all memorandums and documents were reviewed, along with the primary decision, subject matter of appeal. Having called the parties, the Department found that neither Appellant nor its representative appeared despite of being duly notified. In addition, ..., ID No. (.....), in his capacity as Defendant Attorney, by Authorization Letter No. (...) dated ../08/1442 AH issued by Vice Governor for Legal Affairs.

After discussion and deliberation, the Department decided to adjourn consideration of the Case for Monday, 14/11/1443 AH corresponding to 20/06/2022 AD, 02:00 PM, provided that the parties are notified to appear.

On Tuesday 21/11/1443 AH corresponding to 20/06/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Department sessions may be held via modern technical means provided by General Secretariat.” Case file, all memorandums and documents were reviewed, along with the primary decision, subject matter of appeal. Having called the parties, the Department found that neither Appellant nor its representative appeared despite of being duly notified via e-mail included in Case file and by telephone on the number registered in Case file. In addition, ..., National ID No..... appeared in his capacity as a representative of Defendant under Authorization Letter No. (...) dated ../08/1442 AH issued by Vice Governor for Legal Affairs. In addition, the Department decided to proceed with Case consideration. Having asked Appellee’s representative about his answer, he stated that Appellant did not provide the supporting documents during objection phase before ZATCA or before the General Secretariat of Tax Dispute and Violation Committees, which the Department considers an unsubstantiated claim lacking evidence. After deliberation and discussion, the Department decided to instruct ZATCA to submit a memorandum clarifying its statement and to adjourn the hearing to a later session in light of the answer received.

On 26/07/2022 AD, Appellee submitted a memorandum summarized as follows: “ZATCA clarifies that the examination process conducted to reassess tax return provided for tax period (December 2018) began on 22/01/2020 AD. On 23/01/2020 AD, ZATCA sent an official letter requesting additional information, as more documents were required to complete the audit process. However, the Company did not respond to this letter at all. Later, on 03/03/2020 AD, ZATCA extended the deadline for providing documents by sending an official e-mail to the Company, indicating that the deadline had passed, but it would be extended to grant the Company full right to provide any documents clarifying variances arising from comparing revenues in the financial statements with the revenues reflected in tax decisions provided by the Company. However, ZATCA received no cooperation from the Company. After the extended period granted to the Company to provide the necessary documents, the Company was sent a final reminder letter stating that the final deadline would be on 19/03/2020 AD, and ZATCA also indicated in the same e-mail that it reserved the right to take any action it deems appropriate in light of Company’s lack of response. After the audit phase had concluded and ZATCA issued a decision to reassess tax period and subject the variances to the standard VAT rate on local taxable sales, the Company filed an objection with ZATCA. In the objection letter, the Company explained that due to very special medical circumstances, there was a delay in providing the required documents, but the



documents were now available for review. In addition, the Company clarified that it did not possess any documents other than those already submitted, as the accountant and person responsible for archiving documents was absent during that period, and there was no replacement for him. The Company is currently nearing liquidation and employee layoff due to the financial difficulties it has experienced. After reviewing and examining all documents provided by the Company, it turned out that no documents were provided to prove the implementation of the said works or to confirm that the supplies were made prior to the effective date of the Law of Value Added Tax. Moreover, there was no explanation as to how revenues were recorded in the books for projects that had been suspended or transferred to another contractor. The attachments did not include any supporting documents that validate Company's claims; rather, they consisted merely of letters containing explanations and unsubstantiated statements that cannot be accepted without the submission of proper supporting documents".

On Tuesday 25/01/1444 AH corresponding to 04/01/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appellate Department may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appellate Department decision subject of appeal have been reviewed. After discussion and deliberation, the Department decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued by Royal Order No. (26040) dated 21/04/1441 AH. Whereas, appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its regulatory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: The Appellate Department, having taken cognizance of Case documents, and examined the memorandums and answers provided by both parties, found that Appellant challenges the decision that dismissed its claim regarding the reassessment of VAT return for December 2018 and imposing late payment fine. Regarding (Standard-Rated VAT Local Sales), the dispute involves Appellant's objection to the reassessment made by Appellee (ZATCA) of supplies previously declared under zero-rated category and their reclassification as subject to the standard VAT rate. These supplies pertain to payment certificates for government projects, which Appellant claims fall under zero-rated contracts concluded prior to 30/05/2017 AD. As for the objection regarding the amount of SAR 3,934,341, since the contested decision was based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection based on the arguments raised before it. Therefore, this Department determines that these arguments did not affect the outcome of decision. Therefore, Appellate Department concludes acknowledgment of appeal rejection the support of Appellate Department decision it reached in this clause, attributed to its Grounds.

Regarding Appellant's objection to levying VAT on an amount of SAR 9,256,787 related to the settlement of accounts for government projects, the dispute involves Appellant's objection to levying VAT on an amount SAR 9,256,787 arising from contracts concluded before 30/05/2017 AD for government projects that were later halted and relinquished. Since Appellant provided evidence of the suspension of the project for supply and installation of a rainwater drainage network in the northern districts of Al-Hofuf, as indicated in the letter provided by the Ministry of Municipal and Rural Affairs. Given the supporting letters and correspondence provided by Appellant with the Ministry, the Appellate Department finds this corroborates the validity and



soundness of Appellant's position. Therefore, the Appellate Department accepts the appeal regarding this item and annuls the primary decision.

Regarding Appellant's objection to levying VAT on amount of SAR 3,046,409.11, the dispute involves Appellant's objection to levying VAT on amount of SAR 3,046,409.11, which pertains to progress payments for work performed in 2018 under government projects based on contracts signed prior to 30/05/2017 AD. Since Appellant stated that the government agency that owns the project was communicated to issue an amended contract on 01/11/1441 AH corresponding to 22/06/2020 AD, which included VAT in the payment certificate. Since Appellant acknowledged the validity of tax and confirmed that it had remitted it to Appellee. Therefore, the Appellate Department establishes resolution of the dispute between the parties regarding this item.

Regarding Appellant's objection to (Revenues Subject to VAT in the Amount of SAR 2,422,423) item, Appellant indicated that this amount outlines revenue from progress payments under government projects subject to VAT, which was recorded in VAT return for the first quarter of 2019, the quarter following tax period in question. This was due to variances between the revenue recorded in Company's accounts and that approved by project owner, which caused variances between the revenues reported in the financial records and that declared in VAT return. The Appellate Department, having taken cognizance of Appellant's request regarding this item, found that neither Appellee nor the Primary Department had presented their respective stance on this item. Given that Appellant raised this objection before the Primary Department and that no opinion was rendered on it, and considering Appellant's continued adherence to its position stated in the statement of appeal. Therefore, the Appellate Department accepts the appeal regarding this item and remand it to the Primary Department, as it had not exhausted its jurisdiction in considering the matter.

Regarding late payment fine, Appellant requests canceling fines arising from Appellee's reassessment of tax periods in question, by adding revenues arising from contracts concluded with a government agency and late payment fine. Given that most contracts with such entities are adhesion contracts, where supplier has no ability to amend or add terms due to their governance under Government Tenders and Procurement Law, the Department determined that Appellant's failure to report and pay tax liabilities on time was not due to negligence in fulfilling its tax obligations. Since Appellant exercised due diligence by communicating with and requesting government agency to pay the principal amount of tax, which negates any element of willful intent, tax evasion, or deliberate violation of provisions of the Law and Regulations. Therefore, the Department accepts the appeal regarding this item and annuls the primary decision.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Accept the appeal filed by..... and Sons for Trading, Industry and Contracting, C.R. No. (...) in form to be submitted within the period specified by law.

Second: Dismiss the appeal of..... and Sons for Trading, Industry and Contracting, C.R. No. (...) regarding standard-rated VAT local sales related to progress payments for government projects in the amount of SAR 3,934,341, and uphold First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam Decision No. (VD-2021-919).

Third: Accept the Appeal of /... Company and Sons for Trading, Industry and Contracting, C.R. No. (...) regarding standard-rated VAT local sales related to the settlement of accounts of government projects in the amount of SAR 9,256,787, annul First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam Decision No. (VD-2021-919), and amend Appellee's decision.

Fourth: Establish resolution of the dispute between the parties regarding standard-rated VAT local sales related to revenues from progress payments for government projects invoiced to the client in the amount of SAR 3,046,409.11.



Fifth Accept the Appeal of /... Company and Sons for Trading, Industry and Contracting, C.R. No. (...) regarding revenues subject to VAT in the amount of SAR 2,422,423, annul First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam Decision No. (VD-2021-919), and remand the item to the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam.

Sixth: Accept the Appeal of /... Company and Sons for Trading, Industry and Contracting, C.R. No. (...) regarding late payment fine related to (Second, Third and Fourth), annul First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam Decision No. (VD-2021-919), and amend Appellee's decision.

Seventh: Accept the Appeal of /... Company and Sons for Trading, Industry and Contracting, C.R. No. (...) regarding late payment fine related to (Fifth), annul First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam Decision No. (VD-2021-919), and remand the Case to the Primary Department.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-612)
Delivered in Appeal No. (V-
72646-2021)

Key words:

Value Added Tax – Standard-Rated VAT Local Purchases – Concluded Contract – Dismissing Appeal.

Abstract

Appellant requests annulling First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1318) rendered in the Case filed by Appellant against Appellee, which dismissed Plaintiff's claim regarding (Standard-Rated VAT Local Purchases) item for tax period based on the validity of Defendant's decision. Appellant objects to the exclusion of the entire amount of (Purchases) item, arguing that it pertains to a contract concluded with ... Group for Hotel Operation, and that the full contract amount, including VAT, was paid. The Appellant concludes by requesting the Department to accept the appeal and annul Committee's decision. The Appellate Department found that since the contested decision was based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection based on the arguments raised before it. Therefore, this Department determines that these arguments did not affect the outcome of decision. Thereupon, the Department accepts the Appeal in form, dismisses the appeal on merits and upholds the primary decision based on its Grounds.

Instruments:

- Article (15.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Monday 24/01/1444 AH corresponding to 22/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed by Royal Decree No. (65474) dated 23/12/1439 AH, in accordance with Paragraph (5) of Article (67) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, convened at its headquarters in Riyadh, to consider appeal filed on 28/09/2021 AD by ... National ID No..... Being owner of ... Trading Corporation, registered under C.R. No. (...) regarding First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1318) in Case filed by Appellant against Appellee. Since the facts of this Case have been stated in the decision, subject matter of appeal. Therefore, the Appellate Department referred thereto for avoidance of repetition. The primary decision ruled as follows:



- Dismiss Plaintiff's claim regarding (Standard-Rated VAT Local Purchases) item for tax period, as Defendant's decision has been proven to be valid.

Dissatisfied with this decision, Appellant submitted a statement of appeal to the Appellate Department, objecting to the primary decision that dismissed Plaintiff's claim regarding (Standard-Rated VAT Local Purchases) item for tax period in question. Appellant objects to the exclusion of the entire amount of (Purchases) item on the ground that it pertains to a contract concluded with ... Group for Hotel Operation, and that the full amount of the contract, including VAT, was paid. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal and annul Committee's decision.

On Monday 24/01/1444 AH corresponding to 22/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Department sessions may be held via modern technical means provided by General Secretariat." Case file, all memorandums, documents and primary decision, subject matter of appeal, were reviewed. Having called the parties, the Department found that Appellant, ..., holder of National ID No. (...), appeared. In addition, ..., declared his appearance as attorney for Defendant, under authorization letter No. (...) dated ../08/1442 AH Issued by Vice Governor for Legal Affairs. Therefore, the Department decided to open pleadings by asking Appellant about the Case. Appellant answered by satisfying with the statement of appeal submitted via the portal of the General Secretariat, and adheres to the evidence and arguments included therein. Having presented the same to Appellee's representative, he answered by insisting on the memorandums submitted via the e-portal of the General Secretariat of Tax Committees. Having asked the parties hereto whether they had further statements, they satisfied with their earlier submissions. Therefore, the Department decided to adjourn the hearing for deliberation in preparation for adjudication.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: The Appellate Department, having taken cognizance of Case documents, and examined the memorandums and answers provided by both parties, found that the primary decision dismissed Plaintiff's claim regarding (Standard-Rated VAT Local Purchases) item. Since the contested decision was based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection based on the arguments raised before it. Therefore, this Department determines that these arguments did not affect the outcome of decision. Based on the foregoing, the Department concludes to reject the Appeal and uphold the decision of the Primary Department, as supported by its reasoning.

Therefore, and after due deliberation, the Department unanimously decided the following:



Decision:

First: In Form: Accept the appeal filed by ..., holder of National ID No. (...) in form for being filed within the statutory period.

Second: Dismiss the appeal of National ID No..... regarding standard-rated VAT local purchases, and uphold First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1318).

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-613)
Delivered in Appeal No. (V-
60770-2021)

Key words:

Value Added Tax – Late Payment Fine – Inapplicability of Zero-Rated Contract Provisions – Standard-Rated VAT Local Sales – Standard-Rated VAT Local Purchases – Dismissing Appeal.

Abstract

Appellant requests annulling primary decision that dismissed the claim filed by Appellant against Appellee. Appellant objects to dismissing objection regarding the final assessment outcome for tax period related to the fourth quarter of 2018 and the arising fine on the ground that Appellee added an amount of SAR 325,406 related to such payment certificates, based on its claim that the zero-rated contract provisions do not apply. ZATCA answered by asserting that the zero-rated contract provisions do not apply to Payment Certificate No. (61) and No. (62). Regarding standard-rated VAT local purchases, the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. The Appellate Department found, regarding Payment Certificate No. (61) and No. (62), that the certificates were executed after expiry of the contract, during the period from 06/10/2018 AD to 05/12/2018. These supplies, carried out by Taxpayer Company, constitute fulfillment of obligations by the debtor under the contract signed in 2013. The Company provided documents that prove that the work was completed before December 31, 2018 AD. Therefore, the Appellate Department accepts the appeal and applies zero-rated tax to the supplies arising from the contract. Regarding payment certificates related to the contract for supply, installation and connection of prefabricated wells to the plant to increase the potable water production capacity in Najran Region, and based on the documents provided in the Case, it is established that the contract was signed with ... Company for Trading and Contracting (main contractor), who was fully authorized for the project in joint cooperation with Appellant (... Company for Contracting). The project related to that contract was awarded accordingly. The payment certificate and the completion reports issued by the Ministry of Environment, Water and Agriculture (MEWA) refer to the name of main contractor and bear its authentication. Sales invoices to their client were also attached and issued by main contractor, confirming supply value in addition to VAT amount. Since Appellant provided a letter issued by main contractor stating that it had borne and paid VAT amounts. Therefore, the Appellate Department accepts the appeal and annuls the primary decision. Regarding standard-rated VAT local purchases, the Appellate Department did not find any Grounds for reconsideration or objection based on the arguments raised before it. Therefore, this Department determines that these arguments did not affect the outcome of decision. Regarding Appellant's objection to late payment fine, since these fines were imposed as a result of the final reassessment for tax period in question. Since the above item of purchases resulted in accepting appeal and annulling Defendant (ZATCA) procedure. Since the related matters shall have the same effect. Therefore, the Department accepts the appeal regarding this item. Therefore, the Department accepts the appeal in form. On Merits: Accept the appeal regarding standard-rated VAT local sales, annul Department's decision and Appellee's procedure



and dismiss the appeal regarding standard-rated VAT local purchases and uphold Department's decision and Appellee's procedure.

Instruments:

- Articles (79.3) and (53.5) of [the Implementing Regulations of Income Tax Law issued by Ministerial Resolution No. \(1535\) dated 11/06/1425 AH.](#)
- Article (15.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Saturday, 07/02/1444 AH corresponding to 03/09/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed by Royal Order No. (65474) dated 23/12/1439 AH, in accordance with Paragraph (5) of Article (67) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, convened at its headquarters in Riyadh, to consider the appeal filed on 21/07/2021 AD by ... National ID No..... in his capacity as Appellant's attorney under POA No. (...) against Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VTR-2021-379) in Case filed by Appellant against Appellee.

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of the Primary Department ruled the following:

First: In Form: In form:

To Accept case in form.

Second: On merits:

- Accept the Case filed by ... Company for Contracting, C.R. No. (...).

Dissatisfied with this decision, Appellant submitted a statement of appeal to the Appellate Department, objecting to Committee's decision that dismissed the objection to Appellee's final assessment notice for the fourth quarter of 2018 and imposing late payment fine. Appellant challenges Appellee's decision on the ground that the contract for the operation and maintenance of water network and treatment plant at the residential city of the General Authority for Military Industries (GAMI) in Al-Kharj qualifies as a zero-rated contract. In addition, the contract for supply, installation and connection of prefabricated wells to the plant to increase the potable water production capacity in Najran Region was subject to VAT, which was duly paid according to the invoices issued by the joint partner. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal and annul Committee's decision.

On Saturday, 07/02/1444 AH, corresponding to 03/09/2022 AD, First Appellate Department for Value Added and Excise Tax Violations and Disputes held a session to consider appeal submitted via video conference, based on Article 15.2 of Tax Dispute and Violation Committee Procedures, which stipulates that: "Circuit sessions may be held using modern technological means provided by the General Secretariat". Case file, all memorandums, documents and primary decision were reviewed. Having heard stances of both parties, the Department decided to close pleadings for further study and adjudication.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.



Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: The Appellate Department, having taken cognizance of Case documents, and examined the memorandums and answers provided by both parties, found that the primary decision dismissed the Case filed by ... Company for Contracting against ZATCA. Appellant objects to dismissing objection regarding the final tax assessment for the fourth quarter of 2018 and the arising fine. Regarding Appellant's objection to (Standard-Rated VAT Local Sales) item and Invoice No. (61) and (62) related to the contract for the operation and maintenance of water network and treatment plant at the residential city of GAMI in Al-Kharj, the dispute involves claim that Appellee added an amount of SAR 325,406 for those invoices, claiming that the zero-rated contract provisions stipulated by paragraph (3) of Article (79) of the Implementing Regulations of the Law of Value Added Tax do not apply. However, it is established from the relevant contract that its term is (60) months, commencing from the date of site handover on 06/10/2013 AD and ending on 05/10/2018 AD. Since the works related to the invoices were executed after expiry of the contract during the period from 06/10/2018 AD to 05/12/2018 AD. Since these supplies outline fulfillment by the debtor of the contractual obligations under the contract signed in 2013. Since Appellant provided documents that prove the completion of works prior to December 31, 2018 AD. Therefore, the Appellate Department accepts the appeal and applies zero-rated VAT to the supplies arising from the contract.

Regarding payment certificates related to the contract for supply, installation and connection of prefabricated wells to the plant to increase the potable water production capacity in Najran Region, the dispute involves claim that Appellee added an amount of SAR 2,907,306 that outlines Appellant's percentage (20%) out of contract value. Appellant claims that tax amount due on the full amount of contract, including VAT, was paid by main contractor (... Company for Trading, Industry and Contracting. Since it turned out from Case documents that the contract was signed with ... Company for Trading and Contracting (main contractor), who was fully authorized for the project in joint cooperation with Appellant (... Company for Contracting). The project related to that contract was awarded accordingly. The payment certificate and the completion reports issued by MEWA refer to the name of main contractor and bear its authentication. Sales invoices to their client were also attached and issued by main contractor, confirming supply value in addition to VAT amount. Since Appellant provided a letter issued by main contractor stating that it had borne and paid VAT amounts. Therefore, the Appellate Department accepts the appeal and annuls the primary decision.

Regarding standard-rated VAT local, Appellant objects to the primary decision that upheld Appellee's decision to exclude purchases amounting to SAR 153.8 on the ground that the tax invoice did not meet the requirements stipulated by Paragraph (5) of Article (53) of the Implementing Regulations of the Law of Value Added Tax. Since the contested decision was based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection based on the arguments raised before it. Therefore, this Department determines that these arguments did not affect the outcome of decision. Therefore, Appellate Department concludes acknowledgment of appeal rejection the support of Appellate Department decision it reached in this clause, attributed to its Grounds.

Regarding Appellant's objection to late payment fine, since these fines were imposed as a result of the final reassessment for tax period in question. Since the above item of sales resulted in accepting appeal and annulling Defendant (ZATCA) procedure. Since the related matters shall have the same effect. Therefore, the Department accepts the appeal regarding this item.



For the aforementioned Grounds, and after legal deliberation, the Department unanimously decided as follows:

Decision:

First: In Form: Accept the appeal filed ... Company for Contracting, C.R. No. (...), in form to be submitted within the period specified by law.

Second: Accept the appeal filed by ... Company for Contracting, C.R. No. (...), regarding standard-rated VAT local sales, annul Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VTR-2021-379), and annul Appellee's decision.

Third: Dismiss the appeal filed by (... Company for Contracting, C.R. No. (...), regarding standard-rated VAT local purchases, uphold Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VTR-2021-379), and uphold Appellee's procedure.

Fourth: Accept the appeal filed by ... Company for Contracting, C.R. No. (...), regarding late payment fine related to (First), annul Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VTR-2021-379).

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-614)
Delivered in Appeal No. (V-
70383-2021)

Key words:

Value Added Tax – Late Payment Fine – Claim for Compensation Due to Late Payment Fine – The principal rule is that the burden of paying VAT, being an indirect tax, shall be the responsibility of the customer in respect of the goods and services received – Dismissing Appeal.

Abstract

Appellant requests annulling primary decision that dismissed Appellant's claim against Appellee. Appellant based the appeal on the right to claim VAT amount arising from the sale of real estate to Appellee, in addition to obliging Appellee to pay the arising fines. Appellant concluded by requesting the Department to accept the appeal and annul Committee's decision. ZATCA answered that the sale took place in April 2018, and Appellant was not registered for VAT at that time and did not charge VAT. The Appellate Department found that the primary decision was based on the principle that the sale price is presumed to be VAT inclusive. Since Appellee admitted before the Primary Department that he did not pay VAT on the transaction, and it was not proven that the sale in question is VAT inclusive. Given that the principal rule is that the burden of paying VAT, as an indirect tax on goods and services received, shall be the responsibility of the customer or buyer (recipient of goods and services). Since the Appellate Department's established judicial approach to obligating buyer to bear the burden of VAT payment to the seller. Therefore, the Appellate Department accepts the appeal and annuls the primary decision, subject matter of the Case. Regarding the claim to oblige Appellee to pay the late payment fine arising from the sale of properties subject matter of the dispute, since it is established that the contested decision is consistent with provisions of the Law and is based on sound reasoning sufficient to support its ruling, as the Primary Department thoroughly examined the dispute and reached the conclusion stated in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection in light of the arguments raised before it. Therefore, this Department concludes that such arguments have no effect on the outcome of decision. Thereupon, Accept the appeals in form, and on merits to: Accept the appeal and oblige Appellee to pay Appellant an amount of SAR 266,883 that outlines the full amount of VAT due on the real estate supply subject matter of the case. Dismiss the appeal regarding claim for compensation due to late payment fine and uphold the primary decision.

Instruments:

- Article (15.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.



On Tuesday, 10/02/1444 AH corresponding to 06/09/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed by Royal Order No. (65474) dated 23/12/1439 AH, in accordance with Paragraph (5) of Article (67) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, convened at its headquarters in Riyadh, to consider the appeal filed on 13/09/2021 AD by ..., holder of National ID No. (...) in Appellant's own capacity, regarding First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VD-2021-1046) in Case filed by Appellant against Appellee.

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of the Primary Department ruled the following:

First: In Form: In form:

- Accept the Case filed by Plaintiff in form.

Second: On merits:

- To dismiss Plaintiff case.

Dissatisfied with this decision, Appellant submitted a statement of appeal to the Appellate Department, objecting to Primary Committee's decision that dismissed its claim against Appellee (...). Appellant requests annulling Committee's decision, arguing entitlement to claim VAT amount arising from the sale of a real property to Appellee, in addition to obliging Appellee to pay arising fines. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal and annul the primary decision.

On Wednesday, 02/06/1443 AH corresponding to 05/01/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Circuit sessions may be held using modern technological means provided by the General Secretariat". Case file, all memorandums, documents and primary decision, subject matter of appeal, were reviewed. After discussion and deliberation, the Department decided to adjourn hearing of the Case for Tuesday, 29/06/1443 AH corresponding to 01/02/2022 AD, at 01:00 PM, with notification to be sent to the parties to appear.

On Tuesday, 29/06/1443 AH corresponding to 01/02/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Department sessions may be held via modern technical means provided by General Secretariat." Case file, all memorandums, documents and primary decision, subject matter of appeal, were reviewed. Having called the parties, the Department found that Appellant did not appear despite of being duly notified. In addition, Appellee's attorney (...), holder of National ID No. (...) appeared under POA No. (...). Therefore, the Department decided to open pleadings by asking Appellant's attorney who answered as follows: The sale transaction took place in April 2018, and that Appellant was not registered at that time and did not charge VAT. After discussion and deliberation, the Department decided to instruct Appellant to provide the sold title deeds along with a statement of their values, to be uploaded into the system, and to postpone the hearing of the case to a later session in light of the provided documents.

On Tuesday 29/11/1443 AH corresponding to 28/06/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Circuit sessions may be held using modern technological means provided by the General Secretariat". Case file, all memorandums, documents and primary decision, subject matter of appeal, were reviewed. After discussion and deliberation, the Department decided to adjourn the session for a later date, provided that the parties are notified to appear.



On Tuesday 03/02/1444 AH, corresponding to 30/08/2022 AD, First Appellate Department for Value Added and Excise Tax Violations and Disputes held a session to consider the appeal submitted via video conference, based on Article 15.2 of Tax Dispute and Violation Committee Procedures, which stipulates that: "Department sessions may be held via modern technical means provided by General Secretariat." Case file, all memorandums, documents and primary decision, subject matter of appeal, were reviewed. Having called the parties, the Department found that Appellant, ..., holder of National ID No. (...). On the other hand, Appellee did not appear despite of being duly notified. Therefore, the Department decided to open pleadings by asking Appellant about the claim. Appellant answered by satisfying with the statement of appeal and the memorandums submitted through the portal of the General Secretariat of Tax Committees and insists on the arguments and defenses included therein. Having asked Appellant if he would like to add further statements or documents, Appellant stated that he had nothing to add beyond what had already been submitted. Therefore, the Department decided to adjourn the hearing to a later date to allow Appellee an opportunity to appear at the hearing session.

On Tuesday 10/02/1444 AH, corresponding to 06/09/2022 AD, First Appellate Department for Value Added and Excise Tax Violations and Disputes held a session to consider the appeal submitted via video conference, based on Article 15.2 of Tax Dispute and Violation Committee Procedures, which stipulates that: "Department sessions may be held via modern technical means provided by General Secretariat." Case file, all memorandums, documents and primary decision, subject matter of appeal, were reviewed. Having called the parties, the Department found that Appellant, ..., holder of National ID No. (...). On the other hand, Appellee did not appear despite of being duly notified. Therefore, the Department decided to open pleadings by asking Appellant about the claim. Appellant answered by satisfying with the statement of appeal and the memorandums submitted through the portal of the General Secretariat of Tax Committees and insists on the arguments and defenses included therein. Having asked Appellant if he would like to add further statements or documents, Appellant stated that he had nothing to add beyond what had already been submitted. Accordingly, the pleadings were closed and the case was adjourned for deliberation and adjudication.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: The Appellate Department, having taken cognizance of Case documents and examined the documents included therein, and after reviewing memorandums and answers provided by both parties, found that the decision delivered by the Primary Department ruled to accept the Case filed by Appellant (...) against Appellee (...). Regarding the claim for VAT amount arising from the sale of real estate, Appellant requests annulling Committee's decision, arguing that Appellant is entitled to claim VAT due on the real estate sold to Appellee. Since primary decision was based on the presumption that the sale price is VAT inclusive. Since Appellee admitted before the Primary Department that he did not pay VAT on the sale in question, and as it was not established before the Appellate Department that the sale was VAT inclusive. Given that the principal rule is that the burden of paying VAT, as an indirect tax on goods and services received, shall be the responsibility of the customer or buyer (recipient of goods and services). Since the Appellate Department's established judicial approach to obligating buyer to bear the burden of VAT payment to the seller.



Therefore, the Appellate Department accepts the appeal and annuls the primary decision, subject matter of the Case.

Regarding claim to oblige Appellant to pay an amount that outlines VAT arising from the real estate supply in question. Since it is established that the contested decision regarding the dispute, subject matter of consideration, is consistent with provisions of the Law and is based on sound reasoning sufficient to support its ruling, since the Primary Department thoroughly examined the dispute and reached the conclusion stated in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection in light of the arguments raised before it. Therefore, this Department concludes that such arguments have no effect on the outcome of decision. Therefore, the Appellate Department concludes acknowledgment of appeal rejection the support of Appellate Department decision it reached in this clause, attributed to its Grounds. Therefore, and after due deliberation, the Department unanimously decided the following:

Decision:

First: In Form: Accept Appeal From/... National ID No..... in form to be submitted within the period specified by law.

Second: Accept the Appeal of /... National ID No..... and annul First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam Decision No. (VD-2021-1046), and oblige Appellee (...), C.R. No. (...), to pay Appellant (...), National ID No..... an amount of SAR 266,883 (two hundred sixty-six thousand eight hundred eighty-three Riyals) that outlines the full VAT amount due on the real estate supply subject matter of the case.

Third: Dismiss the appeal of National ID No..... regarding claim to pay compensation for late payment fine, and uphold First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam Decision No. (VD-2021-1046). This decision was delivered in presence of both parties and is considered final and enforceable in accordance with Article (47) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-615)
Delivered in Appeal No. (V-
70604-2021)

Key words:

Value Added Tax – Standard-Rated VAT Local – Misdeclaration Penalty Resulting from Final Assessment Notice – Late Payment Fine Resulting from Final Assessment Notice – The purchases in question outline local purchases – Dismissing Appeal.

Abstract

Appellant requests annulling Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VSR-2021-624) in Case filed by Appellant against Appellee, which dismissed Appellant's objection to (Standard-Rated VAT Local Purchases for Tax Period of December 2019) item, (Misdeclaration Penalty Resulting from Final Assessment Notice for December 2019) item, and (Late Payment Fine Resulting from Final Assessment Notice) item. Appellant based the claim on the fact that the purchases in question outline local purchases from two companies within the group, while providing all supporting documents. In addition, Appellant concluded by requesting the Department to accept the appeal and annul the primary decision. The Appellate Department found that the contested decision was based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection based on the arguments raised before it. Therefore, this Department determines that these arguments did not affect the outcome of decision. Thereupon, the Department accepts the appeal in form for being filed within the statutory period, dismisses the appeal and upholds the primary decision regarding (Standard-Rated VAT Local Purchases) item, (Misdeclaration Penalty) item and (Late Payment Fine) item.

Instruments:

- Article (67.55) of [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH as amended by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Article (15.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Saturday, 07/02/1444 AH, corresponding to 03/09/2022 AD, First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed under Royal Decree No. (65474) dated 23/11/1439 AH, in accordance with Article 67.5 of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended under Royal Decree No. (M/113) dated 02/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 14/09/2021 AD, by... National ID No..... in his capacity as the owner of ... Office, C. R. No.



(...) regarding Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VSR-2021-624) in the Case filed by Appellant against Appellee.

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of the Primary Department ruled the following:

- Dismiss the Case filed by Plaintiff (...), holder of National ID No. (...), in his capacity as the owner of ... Office, C.R. No. (...), regarding standard-rated VAT local purchases for tax period of December 2019.
- Dismiss the Case filed by Plaintiff (...), holder of National ID No. (...), in his capacity as the owner of ... Office, C.R. No. (...), regarding misdeclaration penalty resulting from final assessment notice for tax period of December 2019.
- Dismiss the Case filed by Plaintiff (...), holder of National ID No. (...), in his capacity as the owner of ... Office, C.R. No. (...), regarding late payment fine resulting from final assessment notice for tax period of December 2019.

Dissatisfied with this decision, Appellant submitted a statement of appeal to the Appellate Department, objecting to the primary decision, subject matter of appeal, that dismissed the Case on merits. Appellant objects to the primary decision regarding the result of final assessment notice related to December 2019, and requests annulling decision, arguing that the purchases in question outline local purchases from two companies within the group, while providing all supporting documents. In addition, Appellant concludes by requesting the Department to accept the appeal and annuls the primary decision.

On Saturday, 07/02/1444 AH, corresponding to 03/09/2022 AD, First Appellate Department for Value Added and Excise Tax Violations and Disputes held a session to consider appeal submitted via video conference, based on Article 15.2 of Tax Dispute and Violation Committee Procedures, which stipulates that: "Sessions of Appellate Department may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appellate Department decision subject of appeal have been reviewed. After discussion and deliberation, the Department decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: The Appellate Department, having taken cognizance of Case documents, and examined the memorandums and answers provided by both parties, found that the primary decision dismissed Plaintiff's claim regarding (Standard-Rated VAT Local Purchases) item for tax period in question and arising fines. Since the contested decision was based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection based on the arguments raised before it. Therefore, this Department determines that these arguments did not affect the outcome of decision. Based on the foregoing, the Department concludes to reject the Appeal and uphold the decision of the Primary Department, as supported by its reasoning.

Therefore, and after due deliberation, the Department unanimously decided the following:



Decision:

First: In Form: Accept the appeal filed by ..., holder of National ID No. (...), in his capacity as owner of ... Office, C.R. No. (...) in form for being filed with the statutory period.

Second: Dismiss the appeal of, holder of National ID No. (...), in his capacity as owner of ... Office, C.R. No. (...) regarding (Standard-Rated VAT Local Purchases) item, and uphold Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VSR-2021-624).

Third: Dismiss the appeal of National ID No..... in his capacity as owner of ... Office, C. R. No. (...) regarding misdeclaration penalty and late payment fine, and uphold Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VSR-2021-624).

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-616)
Delivered in Appeal No. (V-
72087-2021)

Key words:

Value Added Tax – Transfer of commercial registration to a new owner – No business activity conducted during assessment periods – Assessment decision issued against a party without capacity.

Abstract

Appellant requests annulling Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VSR-2021-523) in Case filed by Appellant against Appellee, whereby the Primary Department ruled inadmissibility of the claim in form due to expiry of the statutory period, relying on the transfer of commercial registration to another owner. The Appellate Department found that Appellant had not engaged in business activity during assessment periods. Since the assessment decision was issued against a party without legal capacity. Therefore, the Appellate Department accepts the appeal and annuls the primary decision. Therefore, the Department accepts the appeal in form, and on merits, accepts the appeal, annuls Second Department's decision and remands the Case to such Department to reconsider it on merits.

Instruments:

- Article (40.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 09/02/1444 AH corresponding to 05/09/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed by Royal Decree No. (65474) dated 23/12/1439 AH, in accordance with Paragraph (5) of Article (67) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, convened at its headquarters in Riyadh, to consider appeal filed on 21/09/2021 AD by ... National ID No..... in Appellant's own capacity regarding Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. Decision No. (VSR-2021-523) in the Case filed by Appellant against Appellee.

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of the Primary Department ruled the following:

- Dismiss the Case filed by Plaintiff (...), National ID No..... in form due to expiry of the statutory period.



Dissatisfied with this decision, Appellant submitted a statement of appeal to the Appellate Department, objecting to the primary decision, subject matter of appeal, which ruled the Case inadmissible in form due to expiry of the statutory period on the ground of transferring the commercial registration to another owner. In addition, Appellant concluded by requesting the Department to accept the appeal and annul the primary decision.

On Monday 09/02/1444 AH corresponding to 05/09/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appellate Department may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appellate Department decision subject of appeal have been reviewed. After discussion and deliberation, the Department decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: The Appellate Department, having taken cognizance of Case documents, and examined the memorandums and answers provided by both parties, found that the primary decision ruled the case inadmissible in form due to expiry of the statutory period. Appellant objects to the primary decision regarding the final assessment for the fourth quarter of 2018, the first quarter of 2019 and the second quarter of 2020 on the ground that the commercial registration had been transferred to another owner. Since Appellant provided a statement issued by the Ministry of Commerce confirming the transfer of commercial registration on 27/02/1440 AH. Since the Department found that Appellant did not engage in any business activity during the relevant assessment periods. Since the assessment decision was issued against a party without capacity. Therefore, the Appellate Department accepts the appeal and annuls the primary decision. Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: **Accept the appeal filed by ..., holder of National ID No. (...) in form for being filed within the statutory period.**

Second: **Accept the Appeal of /... National ID No..... annul Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VSR-2021-523), and remand the Case for reconsideration on merits.**

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-625)
Delivered in Appeal No. (V-
67822-2021)

Key words:

Value Added Tax – Reassessment – Fulfilling Contractual Obligations – Misdeclaration Penalty.

Abstract

Appellant requests annulling primary decision that dismissed Plaintiff's claim regarding the reassessment for October 2018 and the arising fines. Appellant based the claim on the ground that the contract and related works were completed before 01/01/2018 AD, and thus meet zero-rated VAT requirements. ZATCA answered that the contract was signed on 26/05/2015 AD and ended on 25/02/2017 AD. The Appellate Department found that Appellant provided letters addressed to project owner confirming completion of all project works and requesting formation of a handover committee, with the primary handover dated 27/12/2017 AD. Accordingly, the Appellate Department determined that Appellant's claim of having completed and handed over the project before 2018 is valid. Regarding contract addendums signed on 26/02/2017 AD and 11/07/2017 AD, the supplies provided by Taxpayer Company are considered fulfillment of obligations arising from the contract concluded in 2015. In addition, Appellant provided documents proving that the works were completed before December 31, 2018 AD, which indicates that the supplies are related to a contract qualifying for zero-rated VAT. Therefore, the Appellate Department accepts the appeal and annuls the primary decision. Regarding misdeclaration penalty and Appellant's claim to cancel the fines resulting from final assessment notice for tax period in question, since the aforementioned matter resulted in annulling Department's decision, subject matter of appeal. Given that the fines resulted from that decision, any related matters shall have the same effect. Therefore, the Department accepts the appeal in form, and on merits, accepts the appeal and annuls First Department's decision and ZATCA decision.

Instruments:

- Article (15.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Saturday, 03/09/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed by Royal Order No. (65474) dated 23/12/1439 AH, in accordance with Paragraph (5) of Article (67) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, convened at its headquarters in Riyadh, to consider the appeal filed on 30/08/2021 AD by ... National ID No..... appeared in his capacity as Board Chairman of Appellant (... Company), C.



R. No. (...) under AOA against First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VR-2021-273) in Case filed by ... Company Against ZATCA. Since the facts of this Case have been stated in the decision, subject matter of appeal, the Appellate Department refers to this decision for avoidance of repetition. Whereas decision of the Primary Department ruled the following:

First: In Form: In form:

- Accept the Case in form.

Second: On merits:

- Dismiss the claim filed by Plaintiff (... Company), C.R. No. (...), by annulling ZATCA decision regarding the reassessment for October 2018 and levying VAT in the amount of SAR 177,647.58 and misdeclaration penalty in the amount of SAR 88,823.79.

Dissatisfied with this decision, Appellant submitted a statement of appeal to the Appellate Department, objecting to the primary decision that dismissed Plaintiff's claim regarding the reassessment for October 2018 and the arising fines. Appellant requests annulling primary decision on the ground that the contract and related works were completed prior to 01/01/2018 AD, and therefore the conditions for applying zero rate are met. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal and annul the primary decision.

Having presented Appellant's statement of appeal to Appellee (ZATCA), Appellee answered that the contract did not meet the conditions for zero-rated supplies stipulated in Article (79.3) of the Implementing Regulations of the Law of Value Added Tax due to the renewal and amendment of the contract. In addition, the aforementioned Article stipulates: "Any Supply of Goods or services made in respect of a contract which does not anticipate the application of VAT to the Supply may be treated as zero-rated by the Supplier until the earlier of the time the contract expires, is renewed or 31 December ...". Furthermore, the written certificate submitted did not meet the statutory requirements, as it lacked the necessary details of the supplied items subject to deduction request, in addition to contract commencement and expiry dates.

Appellant submitted a reply to Appellee's answer, which included the following: "The main project contract was signed on 26/05/2015 AD and subsequently amended on 26/02/2017 AD, with the total value of amendment amounting to SAR 2,333,000. Appellant added that the project works were fully completed and the project owner was notified of the completion by a letter dated 27/12/2017 AD. The primary handover of project took place on 09/01/2018 AD, and the final payment certificate (closing statement) was submitted to project owner on 08/11/2018 AD. The payment for final certificate was processed by the project owner on 03/04/2019 AD. Appellant asserted that the delay in payment was solely due to project owner and bore no fault on the part of the Company. The delay in submitting final payment certificate was due to the extensive document requirements of project owner. In addition, Appellant emphasized that the final certificate outlines the value of works completed before project's actual completion date of 27/12/2017 AD. Appellant also mentioned that it had approached project owner to refund VAT amount that had been deducted from its entitlements, but the request was denied on the basis of contract date and its amendment date. Appellant argued that since both the contract and its amendment predate the implementation of VAT, and the works covered in the final certificate were performed prior to 01/01/2018 AD, there was no legal basis or justification for deducting VAT from the final certificate amount. Accordingly, Appellant requests the reimbursement of the deducted amount of SAR 177,647.58".

On Saturday, 07/02/1444 AH, corresponding to 03/09/2022 AD, First Appellate Department for Value Added and Excise Tax Violations and Disputes held a session to consider appeal submitted via video conference, based on Article 15.2 of Tax Dispute and Violation Committee Procedures, which stipulates that: "Sessions of Appellate Department may be held via modern technological means provided by General Secretariat." Case file, including memoranda and



documents, and Appellate Department decision subject of appeal have been reviewed. After discussion and deliberation, the Department decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: The Appellate Department, having taken cognizance of Case documents, and examined the memorandums and answers provided by both parties, found that the primary decision dismissed Plaintiff's claim regarding the reassessment for October 2018 and the arising fines. Appellant requests annulling primary decision on the ground that the contract and project works were completed before 01/01/2018 AD, meeting conditions for zero-rated VAT. Since the Appellate Department found that the contract was concluded on 26/05/2015 AD and ended on 25/02/2017 AD. In addition, Appellant provided letters addressed to project owner indicating completion of all project works and requesting the formation of a handover committee. Moreover, Appellant submitted a document that outlines the primary acceptance certificate issued by project owner (... Company). This document indicates that the primary acceptance date is 27/12/2017 AD, confirming Appellant's claim that the project works were completed and handed over before 2018. Regarding the contract addendums signed on 26/02/2017 AD and 11/07/2017 AD, the Appellate Department found that these supplies made by the contractor were in fulfillment of their obligations under the contract signed in 2015. In addition, Appellant provided documents proving that the work was completed before December 31, 2018 AD, and therefore, these supplies are related to a contract subject to zero-rated VAT. Therefore, the Appellate Department accepts the appeal and annuls the primary decision.

Regarding misdeclaration penalty and Appellant's claim for canceling fine resulting from final assessment notice for tax period in question, since the aforementioned matter resulted in annulling primary decision, subject matter of appeal. Given that the fines resulted from that decision, the related matter shall have the same effect. Therefore, the Appellate Department accepts the appeal and annuls the primary decision.

Therefore, and after due deliberation, the Department unanimously decided the following:

Decision:

First: In Form: **accept Appeal in form.**

Second: **Accept the Appeal of Company C.R. No. (...) regarding standard-rated VAT local sales, annul First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VR-2021-273), and annul ZATCA decision.**

Third: **Accept the Appeal of Company C.R. No. (...) regarding misdeclaration penalty, annul First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VR-2021-273), and annul ZATCA decision.**

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-626)
Delivered in Appeal No. (V-
73114-2021)

Key words:

Value Added Tax – Final Assessment Notice – Late Payment Fine – Misdeclaration Penalty – Sales to Citizens Supported by a Submitted List Documented with Customer ID Numbers – Revenues from Sales of Medicines and Medical Equipment – Dismissing Appeal.

Abstract

Appellant requests annulling First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1281) in Case filed by Appellant against Appellee, which ruled: Dismiss Plaintiff's claim regarding (Standard-Rated VAT Local Sales) item for tax period in question due to the validity of Defendant's decision, dismiss Plaintiff's claim regarding Defendant's decision that imposed misdeclaration penalty resulting from final reassessment notice for the same tax period due to the validity of Defendant's decision, and dismiss Plaintiff's claim regarding late payment fine imposed by Defendant for the same period, as Defendant's decision was found to be valid. Plaintiff based the claim on the ground that the revenues in question outline sales to citizens supported by the submitted list documented with customer ID numbers, and that part of the amount outlines revenues from the sale of medicines and medical equipment, which, in accordance with Royal Order No. (A/86), are subject to zero-rate VAT. Appellant concluded by requesting the Department to accept the appeal and annul Committee's decision. The Appellate Department found that the contested decision was based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection based on the arguments raised before it. Therefore, this Department determines that these arguments did not affect the outcome of decision. Thereupon, the Department accepts the appeal in form and dismisses it on merits regarding all items.

Instruments:

- Article (15.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday 16/02/1444 AH, corresponding to 12/09/2022 AD, First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed under Royal Decree No. (65474) dated 23/09/1439 AH, in accordance with Article 67.5 of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended under Royal Decree No. (M/113) dated 02/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 29/12/2021 AD, by... National ID No..... in his capacity as Appellant's attorney under AOA



against First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1281) in Case filed by Appellant against Appellee.

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of the Primary Department ruled the following:

First: In Form: In form:

To Accept case in form.

Second: On merits:

- Dismiss Plaintiff's claim regarding to (Standard-Rated VAT Local Sales) item for tax period in question since Defendant's decision was found to be valid.
- Dismiss Plaintiff's claim regarding Defendant's decision of imposing misdeclaration penalty resulting from final assessment notice for tax period in question since Defendant's decision was found to be valid.
- Dismiss Plaintiff's claim regarding Defendant's decision of imposing late payment fine for tax period in question since Defendant's decision was found to be valid.

Dissatisfied with this decision, Appellant submitted a statement of appeal to the Appellate Department, objecting to the primary decision that dismissed objection to Appellee's final assessment notice for tax period related to January 2018, as well as imposing misdeclaration penalty and late payment fine. Appellant challenged Appellee's decision on the basis that the revenues in question outline sales to citizens, supported by the submitted list documented with customers' ID numbers. Furthermore, a part of the amount outlines revenues from the sale of medicines and medical equipment, which, in accordance with Royal Order No. (A/86), are subject to zero-rated VAT. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal and annul the primary decision.

On Tuesday 16/02/1443 AH corresponding to 12/09/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appellate Department may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appellate Department decision subject of appeal have been reviewed. After discussion and deliberation, the Department decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Since the appeal was filed by a party having capacity and within the statutory period and met its statutory requirements in accordance with Paragraph (2) of Article (40) of Tax Dispute and Violation Committee. Therefore, the appeal is accepted in form.

On Merits: The Appellate Department, having taken cognizance of Case documents, and examined the memorandums and answers provided by both parties, found that the primary decision dismissed the Case filed by ... Company against ZATCA. Since Appellant objects to dismissing objection regarding the final assessment for tax period related to January 2018 and the arising fines, arguing that the revenues in question outline sales to citizens under the submitted list documented with customer ID numbers. In addition, part of the amount relates to revenues from sales of medicines and medical equipment, which, in accordance with Royal Order No. (A/86), are subject to zero-rated VAT. Since the contested decision was based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection based on the arguments raised before it. Therefore, this



Department determines that these arguments did not affect the outcome of decision. Therefore, Appellate Department concludes acknowledgment of appeal rejection the support of Appellate Department decision it reached in this clause, attributed to its Grounds.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Accept the Appeal filed by..... C. R. No. (...) in form to be submitted within the period specified by law.

Second: Dismiss the appeal of..... C.R. No. (...) regarding (Sales to Citizens) item, uphold First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1281) and uphold Appellee's procedure.

Third: Dismiss the appeal of..... C.R. No. (...) regarding (Standard-Rated VAT Local Sales) item, uphold First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1281) and uphold Appellee's procedure.

Fourth: Dismiss the appeal of..... C.R. No. (...) regarding misdeclaration penalty and late payment fine, annul First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1281) and uphold Appellee's procedure.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-639)
Delivered in Appeal No. (V-
79466-2021)

Key words:

Value Added Tax – Reassessment – Misdeclaration Penalty – Late Payment Fine – Zero-Rated Supplies – Invoice Statement for Zero-Rated Supplies – Advance Payments Related to Standard-Rated Supplies – Advance Payments Related to Zero-Rated Supplies – Dismissing Appeal.

Abstract

Appellant requests annulling First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VR-2021-501) in Case filed by Appellant against Appellee, which dismissed Plaintiff's claim to annul ZATCA decision regarding the reassessment for the third quarter of 2020, and imposing VAT amounting to SAR 430,605.74, misdeclaration penalty in the amount of SAR 202,662.10, and a late payment fine of SAR 81,743.25. Appellant based the claim on the fact that the advance payment was declared at the date of invoice issuance, prior to receiving payment, and that a part of the advance payments pertained to supplies subject to zero-rated VAT. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal and annul the primary decision. The Appellate Department found that the contested decision was based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection based on the arguments raised before it. Therefore, this Department determines that these arguments did not affect the outcome of decision. Regarding Appellant's objection to (Advance Payments Related to Zero-Rated Supplies) item, since Appellant provided a list of invoices subject to zero-rated VAT. Since Appellee failed to elaborate the reason for subjecting that portion to standard-rated VAT. Since the basis for the assessment was not proven to the Appellate Department. Therefore, the Appellate Department accepts the appeal regarding this item. Since the fines resulted from this item. Therefore, the related matters shall have the same effect. Thereupon, the Department accepts the appeal in form, and on merits, dismisses the appeal related to levying VAT on "Advance Payments Related to Zero-Rated Supplies", upholds First Department's decision, accepts the appeal related to levying VAT on "Advance Payments Related to Zero-Rated Supplies" and annuls First Department's decision. In addition, the Department accepts the appeal related to "Misdeclaration Penalty and Late Payment Fine" related to advance payments related to zero-rated supplies, amends First Department's decision and amends Appellee's decision.

Instruments:

- Articles (64.2) of [the Implementing Regulations of the Law of Value Added Tax promulgated by ZATCA Board of Directors Resolution No. \(3839\) dated 14/12/1438 AH.](#)
- Article (15.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)



Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday, 25/01/1444 AH corresponding to 23/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed by Royal Order No. (65474) dated 23/12/1439 AH, in accordance with Paragraph (5) of Article (67) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, convened at its headquarters in Riyadh to consider the appeal filed on 26/08/2021 AD by ..., holder of National ID No. (...) in his capacity as the legal representative of Appellant Company against First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VR-2021-501) in Case filed by Appellant against Appellee.

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of the Primary Department ruled the following:

First: In Form: In form:

- To Accept case in form.

Second: On merits:

- Accept the Case filed by the Plaintiff Company, C.R. No. (...), by annulling ZATCA decision regarding the reassessment for the fourth quarter of 2020 and imposing VAT in the amount of SAR 430,605.74, misdeclaration penalty amounting to SAR 202,662.10, and late payment fine of SAR 81,743.25.

Dissatisfied with this decision, Appellant submitted a statement of appeal to the Appellate Department, objecting to the primary decision that dismissed Appellant's claim regarding annulling decision of Appellee (ZATCA) regarding the reassessment for the third quarter of 2020 and the arising fines. Appellant requests annulling primary decision on the ground that the advance payment was declared on the invoice issuance date and prior to receiving payment. In addition, a part of the advance payments related to zero-rated supplies. Appellant concluded the statement of appeal by requesting the Department to accept the appeal and annul the primary decision.

On Tuesday 25/01/1444 AH corresponding to 04/01/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appellate Department may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appellate Department decision subject of appeal have been reviewed. After discussion and deliberation, Department decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: The Appellate Department, having taken cognizance of Case documents, and examined the memorandums and answers provided by both parties, found that Appellant challenges the decision that dismissed its claim regarding the reassessment for the third quarter of



2020, as well as imposing misdeclaration penalty and late payment fine. Regarding the objection to (Advance Payments Related to Zero-Rated Supplies) item, the dispute involves Appellant's objection to the primary decision on the ground that the declaration was made on invoice issuance date, prior to receiving the payment, and that subjecting the amount to VAT would result in double taxation on the same supply. Since the contested decision was based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection based on the arguments raised before it. Therefore, this Department determines that these arguments did not affect the outcome of decision. Therefore, Appellate Department concludes acknowledgment of appeal rejection the support of Appellate Department decision it reached in this clause, attributed to its Grounds.

Regarding Appellant's objection to (Advance Payments Related to Zero-Rated Supplies) item, since it is established, based on the commercial registration, that Appellant's business activity involves the sale, installation, repair and maintenance of medical equipment, which reasonably implies the presence of (qualifying) supplies eligible for zero-rated VAT, yet the entire amount was subjected to standard-rated VAT without excluding the portion related to zero-rated supplies. Since Appellant provided a statement of invoices subject to zero rate, including Invoice No. (ARKI-02/908) dated 21/07/2020 AD. Since Appellee did not provide a direct explanation for levying VAT on this portion. Given that Paragraph (2) of Article (64) of the Implementing Regulations of the Law of Value Added Tax stipulates: "An assessment issued by the Authority shall at a minimum show the Net Tax payable, the due date for payment, and the basis for calculation of the assessment. The assessment shall notify the Taxable Person of its rights to appeal the assessment". Since the Appellate Department did not find evidence supporting the basis on which the reassessment was calculated. Therefore, the Appellate Department accepts the appeal regarding this item and annuls the primary decision.

Regarding misdeclaration penalty, late payment fine and Appellant's claim for canceling such fines that resulted from final assessment notice for tax period in question, since the aforementioned item resulted in annulling primary decision, subject matter of appeal. Given that the fines resulted from that decision. Since the related matters shall have the same effect. Therefore, the Appellate Department accepts the appeal and annuls the primary decision regarding the fines, subject matter of appeal.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Accept the appeal filed by ..., C.R. No. (...), in form for being filed within the statutory period.

Second: Dismiss the appeal filed by ... Company, Closed Joint Stock Saudi Company, C.R. No. (...), regarding (Advance Payments Related to Standard-Rated Supplies) and uphold First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VR-2021-501).

Third: Accept the appeal filed by ... Company, C.R. No. (...) regarding levying VAT on "Advance Payments Related to Zero-Rated Supplies", annul First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VR-2021-501) and annul Appellee's decision.

Fourth: Accept the appeal filed by ..., Company C.R. No. (...) regarding "Misdeclaration Penalty and Late Payment Fine" related to (Advance Payments Related to Zero-Rated Supplies) item, amend First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VR-2021-501), and amend Appellee's decision.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-640)
Delivered in Appeal No. (V-
81634-2021)

Key words:

Value Added Tax – Standard-Rated VAT Local Sales – Rental Income – Late Payment Fine – Dismissing Appeal.

Abstract

Appellant requests annulling First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1536) in Case filed by Appellant against Appellee, which dismissed Plaintiff's claim regarding (Standard-Rated VAT Local Sales) item and (Late Payment Fine) item for tax period (fourth quarter of 2019) since Defendant's decision was found to be valid. Appellant based the claim on the fact the rental income predate registration for VAT dated 19/08/2020 AD. In addition, Appellant concluded by requesting the Department to accept the appeal and annul the primary decision. The Appellate Department found that the contested decision was based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection based on the arguments raised before it. Therefore, this Department determines that these arguments did not affect the outcome of decision. Thereupon, the Department accepts the appeal in form, and on merits, dismisses the appeal regarding (Standard-Rated VAT Local Sales) item related to late payment fine and upholds First Department's decision.

Instruments:

- Article (15.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday, 25/01/1444 AH corresponding to 23/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed by Royal Order No. (65474) dated 23/12/1439 AH, in accordance with Paragraph (5) of Article (67) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, convened at its headquarters in Riyadh to consider the appeal filed on 10/11/2021 AD by ..., holder of National ID No. (...) in Appellant's own capacity, regarding First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1536) in Case filed by Appellant against Appellee.

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of The Primary Department ruled the following:



First: In Form: In form:

- To Accept case in form.

Second: On merits:

- Dismiss Plaintiff's claim regarding (Standard-Rated VAT Local Sales) item for tax period (fourth quarter of 2019), since Defendant's decision was found to be valid.
- Dismiss Plaintiff's claim regarding (Late Payment Fine) item for tax period (fourth quarter of 2019), since Defendant's decision was found to be valid.

Dissatisfied with this decision, Appellant submitted a statement of appeal to the Appellate Department, objecting to the primary decision that dismissed its claim in which Appellant requests annulling decision of Appellee (ZATCA) regarding the reassessment the fourth quarter of 2019 and the arising fines. Appellant requests annulling primary decision on the ground that its rental income predate registration for VAT dated 19/08/2020 AD. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal and annul the primary decision.

On Tuesday 25/01/1444 AH corresponding to 04/01/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Department sessions may be held via modern technical means provided by General Secretariat." Case file, all memorandums, documents and primary decision, subject matter of appeal, were reviewed. Having called the parties, the Department found that Plaintiff's attorney (...), holder of National ID No. (...), appeared under Power of Attorney No. For the Appellee's appeared Mr....., declared his appearance as attorney for Defendant, under authorization letter No. (...) dated 17/08/1442 AH issued by Vice Governor for Legal Affairs. Therefore, the Department decided to open pleadings by asking Appellant about the Case. Appellant answered by satisfying with the statement of appeal and memorandums submitted via the portal of the General Secretariat, and adheres to the evidence and arguments included therein. Upon presenting the case to the Appellee's representative, he answered that he was satisfied with the memoranda submitted to the portal of the General Secretariat of Zakat, Tax and Customs Committees, and that he adhered to the Grounds and defenses contained therein. When both parties were asked what they would like to add, they replied that they were satisfied with what had been previously submitted. Accordingly, the pleadings were closed and the case was referred for study, deliberation, and issuance of a decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: The Appellate Department, having taken cognizance of Case documents, and examined the memorandums and answers provided by both parties, found that Appellant objects to the primary decision that dismissed its claim regarding the reassessment for the fourth quarter of 2019 and imposing late payment fine. Since the contested decision was consistent with provisions of the Law and based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any Grounds for reconsideration or



objection based on the arguments raised before it. Therefore, this Department determines that these arguments did not affect the outcome of decision. Therefore, Appellate Department concludes acknowledgment of appeal rejection the support of Appellate Department decision it reached in this clause, attributed to its Grounds.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Accept the Appeal filed by (...), holder of National ID No. (...), in form to be submitted within the period specified by law.

Second: Dismiss the appeal filed by (...), holder of National ID No. (...), regarding (Standard-Rated VAT Local Sales) item, and uphold First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1536).

Third: Dismiss the appeal filed by (...), holder of National ID No. (...), regarding late payment fine, and uphold First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1536).

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-641)
Delivered in Appeal No. (V-
82635-2021)

Key words:

Value Added Tax – Standard-Rated Local Purchases – Final Assessment Notice – Misdeclaration Penalty – Late Payment Fine – Dismissing Appeal.

Abstract

Appellant requests annulling First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1573) in Case filed by Appellee against Appellant (ZATCA). The decision accepted Plaintiff's claim regarding (Standard-Rated VAT Local Purchases) item in the amount of SAR 1,883,589 and dismissed all other claims related to the final assessment notice for the second quarter of 2018. In addition, the decision Appellee's decision regarding misdeclaration penalty resulted from final assessment notice for the second quarter of 2018, and late payment fine in accordance with the first clause of decision wording. Appellant argued that the Primary Department made amendments to the purchases item without clarifying accepted invoices, which hindered Appellant's ability to provide an answer, and concluded by requesting the Department to accept the appeal and annul the primary decision. The Appellate Department found that the contested decision was based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection based on the arguments raised before it. Therefore, this Department determines that these arguments did not affect the outcome of decision. Thereupon, the Department accepts the appeal in form, and on merits, dismisses the appeal regarding (Standard-Rated VAT Local Purchases) item, (Misdeclaration Penalty) item and (Late Payment Fine) item.

Instruments:

- Article (15.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday, 25/01/1444 AH corresponding to 23/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed by Royal Order No. (65474) dated 23/12/1439 AH, in accordance with Paragraph (b) of Article (67) of Income Tax Law, promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, convened at its headquarters in Riyadh, to consider the appeal filed on 17/11/2021 AD by Appellant (ZATCA) regarding First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1573) in Case filed by Appellee against Appellant (ZATCA).



Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of The Primary Department ruled the following:

First: In Form: In form:

- To Accept case in form.

Second: On merits:

- Accept the Case regarding (Standard-Rated VAT Local Purchases) in an amount of SAR 1,883,589 and dismiss otherwise claims regarding the final assessment notice for the second quarter of 2018.
- Amend Defendant's decision regarding misdeclaration penalty resulted from final assessment notice for the second quarter of 2018 as per the first clause of decision wording.
- Amend Defendant (ZATCA) decision regarding late payment fine resulted from final assessment notice for the second quarter of 2018 as per the first clause of decision wording.

Dissatisfied with this decision, Appellant submitted a statement of appeal to the Appellate Department, objecting to the primary decision that accepted Appellee's claim and annulled Appellant's decisions. Appellant objected to the primary decision because the Primary Department amended the purchased and did not state the invoices accepted so that Appellant can provide an answer. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal and annul the primary decision.

On Tuesday 25/01/1444 AH corresponding to 04/01/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "The sessions of departments may be held via modern technological means provided by General Secretariat." The case file, all memoranda and documents, and the decision of Appellate Department subject of appeal have been reviewed. After discussion and deliberation, Department decided to adjourn the session and issue the decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas, appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its regulatory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: The Appellate Department, having taken cognizance of Case documents, and examined the memorandums and answers provided by both parties, found that the primary decision accepted the Case filed by Plaintiff (... Company), against ZATCA. Appellant objects to the primary decision that ruled accepting Appellee's claim and amending arising fines. Since the contested decision was consistent with provisions of the Law and based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection based on the arguments raised before it. Therefore, this Department determines that these arguments did not affect the outcome of decision. Therefore, Appellate Department concludes acknowledgment of appeal rejection the support of Appellate Department decision it reached in this clause, attributed to its Grounds.

Therefore, and after due deliberation, Department unanimously decided the following:



Decision:

First: In Form: Accept appeal of ZATCA in form to be submitted within the period specified by law.

Second: Dismiss ZATCA appeal regarding (Standard-Rated VAT Local Purchases) item, and uphold First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1573).

Third: Accept ZATCA appeal regarding misdeclaration penalty and late payment fines, and uphold First Department to Adjudicate Value Added Tax Violations and Disputes in **Jeddah Decision** No. (VJ-2021-1573).

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-654)
Delivered in Appeal No. (V-
79795-2021)

Key words:

Value Added Tax – Standard-Rated VAT Local Sales – Late Payment Fine – Dismissing Appeal.

Abstract

Appellant requests annulling First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1393) in Case filed by Appellant against Appellee. The decision dismissed Plaintiff's claim regarding (Standard-Rated VAT Local Sales) item for tax period (third quarter of 2020) in question, since Defendant's decision was found to be valid. Appellant argued that the amount added outline an advance paid in installments by her son, and therefore was not disclosed, adding that VAT on the amount had already been paid in advance. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal and annul the primary decision. The Appellate Department found that the contested decision was based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection based on the arguments raised before it. Therefore, this Department determines that these arguments did not affect the outcome of decision. Therefore, the Department dismisses the appeal and upholds the primary decision. Thereupon, the Department dismisses the appeal in form, and on merits, dismisses the appeal regarding (Standard-Rated VAT Local Sales) item.

Instruments:

- Article (15.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah, and prayers and peace be upon our Prophet Muhammad, his Family, and all Companions.

On Monday, 09/02/1444 AH corresponding to 05/09/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed by Royal Order No. (65474) dated 23/12/1439 AH, in accordance with Paragraph (5) of Article (67) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, convened at its headquarters in Riyadh, to consider appeal filed on 28/10/2021 AD by ..., holder of National ID No. (...) being owner of ... for General Contracting, C.R. No. (...), regarding First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1393) in Case filed by Appellant against Appellee. Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of The Primary Department ruled the following:



- Dismiss Plaintiff's claim regarding (Standard-Rated VAT Local Sales) item for tax period (fourth quarter of 2020), subject matter of the case, as Defendant's decision was proven to be valid.

Dissatisfied with this decision, Appellant submitted a statement of appeal to the Appellate Department, objecting to the primary decision, subject matter of appeal, which dismissed Plaintiff's claim on merits. Appellant challenged the primary decision regarding the outcome of final assessment notice for the third quarter of 2020 and requested annulling primary decision, arguing that the amount added outlined an advance paid in installments by his son and was therefore not declared, and that VAT had already been remitted on the amount. In addition, Appellant concluded the statement by requesting the Department to accept the appeal and annul the primary decision.

On Monday 09/02/1444 AH corresponding to 05/09/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appellate Department may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appellate Department decision subject of appeal have been reviewed. After discussion and deliberation, the Department decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas, appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its regulatory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: The Appellate Department, having taken cognizance of Case documents, and examined the memorandums and answers provided by both parties, found that the primary decision dismissed Plaintiff's claim regarding (Standard-Rated VAT Local Sales) item. Since the contested decision was based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection based on the arguments raised before it. Therefore, this Department determines that these arguments did not affect the outcome of decision. Based on the foregoing, the Department concludes to reject the Appeal and uphold the decision of the Primary Department, as supported by its reasoning.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Accept the appeal filed by ..., holder of National ID No. (...) in form for being filed within the statutory period.

Second: Dismiss the appeal filed by ..., holder of National ID No. (...) regarding (Standard-Rated VAT Local Sales) item, and uphold First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1393).

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-655)
Delivered in Appeal No. (V-
83555-2021)

Key words:

Value Added Tax – Late Payment Fine – Result of Final Assessment Notice – Standard-Rated VAT Local Purchases – Dismissing Appeal.

Abstract

Appellant requests annulling Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VSR-2021-800) in Case filed by Appellant against Appellee, which ruled to dismiss the Case filed by Plaintiff (...), holder of National ID No. (...), regarding (Standard-Rated VAT Local Purchases) item for tax period in question and establishing resolution of the dispute regarding late payment fine, Appellant objects to the primary decision regarding the outcome of final assessment notice for the third quarter of 2020, and requests annulling the primary decision on the ground that he provided purchase invoices consistent with the description of tax invoice. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal and annul the primary decision. The Appellate Department found that the contested decision was based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection based on the arguments raised before it. Therefore, this Department determines that these arguments did not affect the outcome of decision. Thereupon, the Department accepts the appeal in form, and on merits, dismisses the appeal regarding (Standard-Rated VAT Local Purchases) item.

Instruments:

- Article (15.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday 09/02/1444 AH, corresponding to 05/09/2022 AD, First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed under Royal Decree No. (65474) dated 23/09/1439 AH, in accordance with Article 67.5 of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended under Royal Decree No. (M/113) dated 02/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 23/11/2021 AD, by... National ID No..... regarding Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VSR-2021-800) in the Case filed by Appellant against Appellee.



Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of The Primary Department ruled the following:

- Dismiss the Case filed by Plaintiff (...), holder of National ID No. (...), regarding (Standard-Rated VAT Local Purchases) item for tax period in question.
- Establish resolution of the dispute regarding the late payment fine.

Dissatisfied with this decision, Appellant submitted a statement of appeal to the Appellate Department, objecting to the primary decision, subject matter of appeal, that dismissed the Case on merits. Appellant objects to the primary decision regarding the result of final assessment notice related to the third quarter of 2020, and requests annulling primary decision, arguing that Appellant provided purchase invoices consistent with the description of tax invoice. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal and annul the primary decision.

On Monday 09/02/1444 AH corresponding to 05/09/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appellate Department may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appellate Department decision subject of appeal have been reviewed. After discussion and deliberation, the Department decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas, appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its regulatory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: The Appellate Department, having taken cognizance of Case documents, and examined the memorandums and answers provided by both parties, found that the primary decision dismissed Plaintiff's claim regarding (Standard-Rated VAT Local Purchases) item for tax period in question. Since the contested decision was based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection based on the arguments raised before it. Therefore, this Department determines that these arguments did not affect the outcome of decision. Based on the foregoing, the Department concludes to reject the Appeal and uphold the decision of the Primary Department, as supported by its reasoning.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Accept the appeal filed by ..., holder of National ID No. (...) in form for being filed within the statutory period.

Second: Dismiss the appeal filed by ..., holder of National ID No. (...) regarding (Standard-Rated VAT Local Purchases) item, and uphold Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VSR-2021-800).

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-656)
Delivered in Appeal No. (V-
84080-2021)

Key words:

Value Added Tax – Real Estate Supply – Title Deed of Property Transfer – VAT Registration Certificate – Payment of VAT due on the Sale.

Abstract

Appellant requests annulling First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1672) in Case filed by Appellant against Appellee that dismissed the case on the ground that Plaintiff failed to establish the right to claim VAT amount related to the real estate supply in question. Appellant bases the appeal on the belief that Appellant is entitled to claim VAT resulting from the sale of a property to Appellee. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal and annul the primary decision. The Appellate Department found that the primary decision was based on Appellant's failure to provide the supporting documents, specifically the title deed showing the property was transferred to Appellee and VAT registration certificate. Since the Department found that Appellant applied for VAT registration on 16/08/2020 AD, and that the sale of land in question took place on 15/11/1441 AH corresponding to 06/07/2020 AD as evidenced by the title deed. Since Appellant provided proof of remitting VAT due from the sale in question. Therefore: The Department accepts the appeal in form, and on merits, accepts the appeal and annuls the primary decision, subject matter of the Case.

Instruments:

- Article (15.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday, 10/02/1444 AH corresponding to 06/09/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed by Royal Order No. (65474) dated 23/12/1439 AH, in accordance with Paragraph (5) of Article (67) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, convened at its headquarters in Riyadh, to consider the appeal filed on 27/09/2021 AD by ... National ID No..... in Appellant's own capacity, regarding First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1672) in Case filed by Appellant against Appellee. Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of The Primary Department ruled the following:

First: In Form: In form:



- Accept the Case filed by Plaintiff in form.

Second: On merits:

- Dismiss the claim due to Plaintiff's failure to establish the right to claim Defendant to pay VAT amount related to the real estate supply, subject matter of the Case.

Dissatisfied with this decision, Appellant submitted a statement of appeal to the Appellate Department, objecting to the primary decision that dismissed the claim against Appellee (...). Appellant requests annulling Committee's decision, asserting its right to claim VAT amount resulting from the sale of property to Appellee. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal and annul the primary decision.

On Tuesday 14/11/1443 AH corresponding to 13/06/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Department sessions may be held via modern technical means provided by General Secretariat." Case file, all memorandums, documents and Primary Department's decision, subject matter of appeal were reviewed. It turned out that Appellant did not provide the said title deed and tax invoice, in addition to Appellee's failure to provide an answer to the appeal. After deliberation and discussion, the Department decided to adjourn Case consideration to a later session in light of any forthcoming submissions.

Having presented the statement of appeal to Appellee, Appellee submitted an answer summarized as follows: "First: I elaborate to Your Honor that the agreement between Plaintiff and me was that I would pay an amount of SAR 450,000, inclusive of the value of land and VAT. This agreement is affirmed by the fact that Plaintiff acknowledged the sale and transferred the land to me under Title Deed No. (...) for Plot No. (...) located in Al-Musayyaf District, Tabuk Region. Second: while maintaining reasoning stated in the primary decision, I inform Your Honor that the mere act of Plaintiff paying VAT is evidence supporting agreement that the total sale amount, inclusive of VAT, is the amount I paid him. Plaintiff's claim that I informed him that he was exempt or excluded from VAT is incorrect. If the agreement had been otherwise, he would not have paid VAT or completed the transfer of ownership. Moreover, he did not file any claim until more than a year had passed since the title transfer, which further confirms that Plaintiff's payment of VAT and completion of the ownership transfer procedures are clear evidence that the amount he received included both sale price and VAT. Accordingly, I respectfully request that Your Honor uphold the primary decision which stated: "Dismiss the Case due to Plaintiff's failure to establish his right to claim Defendant to pay VAT amount related to the real estate supply in question".

On Tuesday 10/02/1444 AH corresponding to 06/09/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appellate Department may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appellate Department decision subject of appeal have been reviewed. After discussion and deliberation, the Department decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas, appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its regulatory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.



On Merits: The Appellate Department, having taken cognizance of Case documents and examined the documents included therein, and after reviewing memorandums and answers provided by both parties, found that the decision delivered by the Primary Department ruled to accept the Case filed by Appellant (...) against Appellee (...). Appellant requests annulling Committee's decision on the ground that Appellant is entitled to claim VAT amount resulting from the sale of a property to Appellee. Since the primary decision was based on Appellant's failure to provide the supporting documents for the claim, including title deed confirming transfer of ownership to Appellee and VAT registration certificate. The Department found that Appellant applied for VAT registration on 16/08/2020 AD, while the sale of the plot of land in question occurred on 15/11/1441 AH corresponding to 06/07/2020 AD, pursuant to the title deed of transfer. Since Appellant provided evidence confirming remitting VAT due on the transaction. Given that it is well established under the statutory provisions of the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC), Law of Value Added Tax and its Implementing Regulations that paying VAT shall be the responsibility of recipient of the supplied goods or services. Therefore, the Department accepts the appeal and annul the primary decision, subject matter of the Case. Therefore, and after legal deliberation, the Department unanimously decided as follows:

Decision:

First: In Form: Accept the appeal filed by ..., holder of National ID No. (...) in form for being filed within the statutory period.

Second: Accept the appeal filed by ..., holder of National ID No. (...) and annul First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1672), and oblige Appellee (...), C.R. No. (...), to pay Appellant (...), National ID No..... an amount of SAR 67,500 (sixty-seven thousand and five hundred Riyals) that outlines the full VAT amount due on the real estate supply subject matter of the case.

This decision was delivered in presence of both parties and is considered final and enforceable in accordance with Article (47) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-657)
Delivered in Appeal No. (V-
84356-2021)

Key words:

Value Added Tax – Case dismissed and archived due to incomplete documents – Accepting Appeal in Form and on Merits.

Abstract

Appellant requests annulling First Department to Adjudicate Value Added Tax Violations and Disputes Decision in Dammam No. (VD-2021-1326) in Case filed by Appellant against Appellee, which ruled to dismiss the Case for expiry of the statutory period; relying on the fact that the objection was filed within the statutory period. In addition, Appellant concluded by requesting the Department to accept the appeal. The Appellate Department found that Appellant was notified of the objection dismissing decision on 22/02/2021 AD and filed the electronic Case No. (V-39277-2021) to the General Secretariat on 27/02/2021 AD. Since the Case was dismissed and archived due to incomplete documents. Therefore, the Appellate Department accepts the appeal and annuls the primary decision. Thereupon: The Department accepts the appeal in form and on merits, and remands the Case to be considered on merits.

Instruments:

- Article (15.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Saturday, 07/02/1444 AH, corresponding to 03/09/2022 AD, First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed under Royal Decree No. (65474) dated 23/11/1439 AH, in accordance with Article 67.5 of Income Tax Law, promulgated under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended under Royal Decree No. (M/113) dated 02/11/1438 AH, met at its headquarters in Riyadh, to consider appeal submitted on 29/11/2021 AD, by... National ID No..... Being owner of ... for Contracting, C.R. No. (...), regarding First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam Decision No. (VD-2021-1326) in the Case filed by Appellant against Appellee.

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of The Primary Department ruled the following:

- Dismiss the Case in due to expiry of the statutory period.

Dissatisfied with this decision, Appellant submitted a statement of appeal to the Appellate Department, objecting to the primary decision, subject matter of appeal, which ruled the Case



inadmissible in form due to expiry of the statutory period on the ground of filing appeal within the statutory period. In addition, Appellant concluded by requesting the Department to accept the appeal.

On Saturday, 07/02/1444 AH, corresponding to 03/09/2022 AD, First Appellate Department for Value Added and Excise Tax Violations and Disputes held a session to consider appeal submitted via video conference, based on Article 15.2 of Tax Dispute and Violation Committee Procedures, which stipulates that: "Sessions of Appellate Department may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appellate Department decision subject of appeal have been reviewed. After discussion and deliberation, the Department decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Since the appeal was filed by a party having capacity and within the statutory period and met its statutory requirements in accordance with Paragraph (2) of Article (40) of Tax Dispute and Violation Committee. Therefore, the appeal is accepted in form.

On Merits: The Appellate Department, having taken cognizance of Case documents, and examined the memorandums and answers provided by both parties, found that the primary decision dismissed the case in form due to expiry of the statutory period. Since Appellant challenges the primary decision on the basis that the objection was filed within the statutory period. Since the Department found that Appellant was notified of the objection dismissing decision on 22/02/2021 and filed the electronic Case No. (V-39277-2021) with the General Secretariat on 27/02/2021 AD. Since the Case was dismissed and archived due to incomplete documents. Therefore, the Appellate Department accepts the appeal and annuls the primary decision.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Accept the appeal filed by ..., holder of National ID No. (...) in form for being filed within the statutory period.

Second: Accept the appeal filed by ..., holder of National ID No. (...) and annul First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam Decision No. (VD-2021-1326), and remand the Case for reconsideration on merits.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-658)
Delivered in Appeal No. (V-
85269-2021)

Key words:

Value Added Tax – Standard-Rated VAT Local Purchases – Misdeclaration Penalty – Late Payment Fine – Purchase Invoices Compliant with Tax Invoice Requirements.

Abstract

Appellant requests annulling First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1690) in the Case filed by Appellant against Appellee, which dismissed Plaintiff's claim regarding (Standard-Rated VAT Local Purchases) item for tax period (January 2018), and established resolution of the dispute regarding misdeclaration penalty and late payment fine for (January 2018). The appeal was based on the claim that neither the Primary Department nor Appellee examined statements provided by the Company, which included detailed purchase information. In addition, Appellant concluded by requesting the Department to accept the appeal and annul the primary decision. The Appellate Department found that Appellant provided a sample of purchase invoices, which were found to meet the requirements of a tax invoice. Since the Department found that provided statements and documents showed that Appellant exercised the due diligence and cooperated with Appellee by providing the required documents and samples. Since Appellee did not challenge the validity of documents provided by Appellant. Therefore, the Appellate Department accepts the appeal and annuls the primary. Thereupon: The Department accepts the appeal in form, and on merits, accepts the appeal and annuls the primary decision.

Instruments:

- Articles (53.5) of [the Implementing Regulations of the Law of Value Added Tax Law issued by ZATCA Board of Directors Resolution No. \(3839\) dated 14/12/1438 AH.](#)
- Article (15.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 09/02/1444 AH corresponding to 05/09/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed by Royal Order No. (65474) dated 23/12/1439 AH, in accordance with Paragraph (5) of Article (67) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, convened at its headquarters in Riyadh to consider the appeal filed on 07/12/2021 AD by (... Company), C.R. No. (...) against First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1690) rendered in Case filed by Appellant against Appellee.



Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of The Primary Department ruled the following:

First: In Form: In form:

- To Accept case in form.

Second: On merits:

- Dismiss Plaintiff's claim regarding (Standard-Rated VAT Local Purchases) item for tax period (January 2018), subject matter of the Case, as Defendant's decision was proven to be valid.
- Establish resolution of the dispute regarding misdeclaration penalty for tax period (January 2018) in question.
- Establish resolution of the dispute regarding late payment fine for tax period (January 2018) in question.

Dissatisfied with this decision, Appellant submitted a statement of appeal to the Appellate Department, objecting to the primary decision that dismissed the Case in which Appellant requests annulling decision of Appellee (ZATCA) regarding the reassessment for January 2018 on the ground that neither the Primary Department nor Appellee examined the statements provided by the Company that include detailed purchases. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal and annul the primary decision.

In response to Appellant statement, Appellee submitted a counter-argument, summarized as follows: "It was excluded due to failure to provide the supporting documents for deduction of purchases in accordance with Article (48) of the Common VAT Agreement of the States of the GCC".

On Monday 09/02/1444 AH corresponding to 05/09/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appellate Department may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appellate Department decision subject of appeal have been reviewed. After discussion and deliberation, Department decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: The Appellate Department, having taken cognizance of Case documents, and examined the memorandums and answers provided by both parties, found that Appellant objects to the primary decision that dismissed the claim regarding the reassessment of January 2018 regarding standard-rated VAT local purchases. The dispute involves Appellant's objection to the primary decision on the ground of validity of Appellant's position and accuracy of VAT return filed, considering that all purchase amounts are duly supported by documents. In addition, a sample was provided to Appellee during audit phase upon its request; however, Appellant noted that the file size was too large to send via e-mail and requested an on-site audit to validate the documents. Since Appellant provided a sample of purchase invoices, and that these invoices met the requirements of tax invoice in accordance with Paragraph (5) of Article (53) of the



Implementing Regulations of the Law of Value Added Tax. Since its established from the statements and documents provided in the Case that Appellant exercised the due diligence and showed cooperated with Appellee by providing the required documents and samples. Since Appellee did not challenge the validity of documents provided by Appellant. Therefore, the Appellate Department accepts the appeal and annuls the primary decision.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Accept the appeal filed by ..., holder of National ID No. (...) in form for being filed within the statutory period.

Second: Accept the appeal filed by (...) Company, C.R. No. (...), regarding (Standard-Rated VAT Local Purchases) item, annul First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1690), and annul Appellee's decision.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-664)
Delivered in Appeal No. (V-
81181-2021)

Key words:

Value Added Tax – Value Added Tax on Real Estate Supply – Late Payment Fine – It is established under Sharia that reconciliation is allowed among the Muslims, except for reconciliation that makes the lawful unlawful, or the unlawful lawful – Dismissing Appeal.

Abstract

Appellant requests annulling First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1621) in Case filed by Appellant against Appellee. Dismiss Plaintiff's claim due to the existence of a reconciliation between the parties regarding VAT amount related to the real estate supply, subject matter of the dispute; based on the claim that the ruling rendered by the General Court in Makkah concerned only the rental amounts and did not address VAT, with a request to accept the appeal and annul the primary decision. ZATCA answered that Defendant's claim in the statement of appeal regarding the alleged error in relying on the reconciliation recorded in Deed No. (...) dated 15/06/1441 AH is incorrect, and it is also incorrect to claim that VAT has no relevance to the settlement, given that it is established under Sharia that reconciliation is allowed among the Muslims, except for reconciliation that makes the lawful unlawful, or the unlawful lawful, and the pillars of the reconciliation in the said deed have been fulfilled. The Appellate Department found, based on the facts of the Case, that the reconciliation before the General Court in Makkah concerned the amounts arising under the lease agreement. Since Appellant claims VAT from Appellee. Since the Primary Committee should have discussed the settlement amount and determined whether it included VAT. Therefore, the Appellate Department accepts the appeal and annuls the primary decision. Thereupon: The Department accepts the appeal in form, and on merits, accepts the appeal and remands the Case to the Primary Department for consideration as stated in decision Grounds.

Instruments:

- Article (15.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 16/02/1443 AH corresponding to 12/09/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed by Royal Order No. (65474) dated 23/12/1439 AH, in accordance with Paragraph (5) of Article (67) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, convened at its headquarters in Riyadh, to consider appeal filed on 08/11/2021 AD by ... National ID No..... in Appellant's own capacity, regarding First



Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1621) in Case filed by Appellant against Appellee.

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of The Primary Department ruled the following:

First: In Form: In form:

- Accept the Case filed by Plaintiff in form.

Second: On merits:

- Dismiss Plaintiff's claim due to the established reconciliation between the parties regarding VAT amount related to the real estate supply, subject matter of the dispute, pursuant to the Sharia Deed No. (...) dated 15/06/1441 AH issued by the General Court in Makkah.

Dissatisfied with this decision, Appellant submitted a statement of appeal to the Appellate Department, objecting to the primary decision that dismissed the claim against Appellee (...) due to the established settlement between the two parties. Appellant requests annulling primary decision on the ground that the ruling issued by the General Court in Makkah pertains solely to rental amounts and does not include VAT. In addition, Appellant concluded by requesting the Department to accept the appeal and annul the primary decision.

Having presented the statement of appeal to Appellee, Appellee submitted an answer summarized as follows: "It is incorrect, as stated in Defendant's statement of appeal, that there was an error in relying on the settlement recorded in Deed No. (...) dated 15/06/1441 AH, and it is incorrect to claim that the settlement does not involve VAT, as it is established under Sharia that the reconciliation is allowed among the Muslims, except for reconciliation that makes the lawful unlawful, or the unlawful lawful, and all pillars of reconciliation were fulfilled in the said deed".

On Tuesday 07/11/1443 AH corresponding to 06/06/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Department sessions may be held via modern technical means provided by General Secretariat." Case file, all memorandums, documents and primary decision, subject matter of appeal, were reviewed. Having called the parties, the Department found that Appellant, ..., holder of National ID No. (...) appeared.

In addition, Appellee (...), Saudi national, holder of National ID No. (...), under POA No. (...), appeared. Therefore, the Department decided to open pleadings by asking Appellant about the claim. Appellant gave an answer that does not differ from the previous statements, and that he satisfies with the statement of appeal and memorandums filed through the portal of the General Secretariat of Tax Dispute and Violation Committees, in addition to insisting on the evidence and arguments included therein and the ruling rendered by the General Court that ruled to settle the Case by reconciliation. Having presented the same to Appellee's representative, he gave an answer that does not differ from the previous statements included in the answer, and that he satisfies with the memorandums filed through the portal of the General Secretariat of Tax Dispute and Violation Committees, in addition to insisting on the evidence and arguments included therein. Appellee's representative added that Appellee is entitled to claim the amount of tax remittance from ZATCA, and that tax remittance does not result in any harm. Having asked both parties if they would like to add any statements or documents, they stratified with earlier submissions. Having taken cognizance of Case file, the Department did not find the judgment issued by the General Court among the attached documents. Therefore, the Department asked Appellee to provide the judgment rendered by the General Court related to the subject matter of the Case, which ruled to settle the dispute between the parties through reconciliation, within five days. After deliberation and discussion, the Department decided to adjourn the hearing to a later session in light of the documents to be provided.



On Tuesday 29/11/1443 AH corresponding to 28/06/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Circuit sessions may be held using modern technological means provided by the General Secretariat". In addition, Case file, all memorandums, documents and primary decision, subject matter of appeal, were reviewed. After discussion and deliberation, the Department decided to adjourn the session for a later date, provided the parties are notified to appear.

On Monday, 16/02/1443 AH corresponding to 12/09/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Department sessions may be held via modern technical means provided by General Secretariat." Case file, all memorandums, documents and primary decision, subject matter of appeal, were reviewed. Having called the parties, the Department found that Appellant, ..., holder of National ID No. (...) appeared.

In addition, Appellee (...), Saudi national, holder of National ID No. (...), under POA No. (...), appeared. Therefore, the Department decided to open pleadings by asking Appellant about the claim. Appellant gave an answer Appellant satisfies with the statement of appeal and memorandums submitted via the portal of the General Secretariat of Tax Committees, and insists on the arguments and defenses contained therein. Upon presenting the case to the Appellee's representative, he answered that he was satisfied with the memoranda submitted to the portal of the General Secretariat of Zakat, Tax and Customs Committees, and that he adhered to the Grounds and defenses contained therein. When both parties were asked what they would like to add, they replied that they were satisfied with what had been previously submitted. Accordingly, the pleadings were closed and the case was referred for study, deliberation, and issuance of a decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: The Appellate Department, having taken cognizance of Case documents and examined the documents included therein, and after reviewing memorandums and answers provided by both parties, found that the decision delivered by the Primary Department ruled to accept the Case filed by Appellant (...) against Appellee (...). Appellant requests annulling primary decision, arguing that the ruling rendered by the General Court in Makkah only pertains to rental amounts and does not involve VAT. Since the Primary Committee based its decision on the reconciliation between the two parties according to General Court in Makkah Deed No. (...) dated 15/06/1441 AH, and the decision became final in accordance with Article (42) of Tax Dispute and Violation Committee Procedures. Since the facts of the Case reveal that the reconciliation before the General Court in Makkah pertains to amounts due under the lease agreement. Since Appellant claims Appellee to pay VAT, as it was necessary for the Primary Committee to discuss the settled amount and determine whether it included VAT. Therefore, the Appellate Department accepts the appeal and annuls the primary decision.

Therefore, and after due deliberation, Department unanimously decided the following:



Decision:

First: In Form: Accept the appeal filed by ..., holder of National ID No. (...) in form for being filed within the statutory period.

Second: Accept the appeal filed by ..., holder of National ID No. (...), annul First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1621) and remand the Case to the Primary Department to be considered as stated in decision Grounds.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-665)
Delivered in Appeal No. (V-
85178-2021)

Key words:

Value Added Tax – Standard-Rated VAT Local Purchases – Misdeclaration Penalty – Late Payment Fine – Purchase Invoices Compliant with Tax Invoice Requirements – Validity of Documents Provided by Appellant – Dismissing Appeal.

Abstract

Appellant requests annulling First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1635) in the Case filed by Appellant against Appellee, which dismissed Plaintiff's claim regarding (Standard-Rated VAT Local Purchases) item for tax period (April 2018), subject matter of the dispute, as Defendant's decision was found to be valid, and established resolution of the dispute regarding misdeclaration penalty and late payment fine. The appeal was based on the claim that neither the Primary Department nor Appellee examined statements provided by the Company, which included detailed purchase information. In addition, Appellant concluded by requesting the Department to accept the appeal and annul the primary decision. The Appellate Department found that Appellant provided a sample of purchase invoices, which were found to meet the requirements of a tax invoice. Since the Department found that the provided statements and documents showed that Appellant exercised the due diligence and cooperated with Appellee by providing the required documents and samples. Since Appellee did not challenge the validity of documents provided by Appellant. Therefore, the Appellate Department accepts the appeal in form, and on merits, accepts the appeal, annuls the primary decision and annuls Appellee's procedure.

Instruments:

- Articles (53.5) of [the Implementing Regulations of the Law of Value Added Tax issued by ZATCA Board of Directors Resolution No. \(3839\) dated 14/12/1438 AH.](#)
- Article (15.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

On Tuesday, 17/02/1443 AH corresponding to 13/09/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed by Royal Order No. (65474) dated 23/12/1439 AH, in accordance with Paragraph (5) of Article (67) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, convened at its headquarters in Riyadh to consider the appeal filed on 06/12/2021 AD by ..., holder of National ID No. (...) in his capacity as Appellant Company's attorney under POA No. (...) against First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1635) in Case filed by Appellant against Appellee. Since facts of this case have been stated in the decision subject matter of appeal,



Appellate Department refers to this decision for avoidance of repetition. Whereas decision of The Primary Department ruled the following:

First: In Form: In form:

- To Accept case in form.

Second: On merits:

- Dismiss Plaintiff's claim regarding (Standard-Rated VAT Local Purchases) item for tax period (April 2018), subject matter of the Case, as Defendant's decision was proven to be valid.
- Establish resolution of the dispute regarding misdeclaration penalty for tax period (April 2018) in question.
- Establish resolution of the dispute regarding late payment fine for tax period (April 2018) in question.

Dissatisfied with this decision, Appellant submitted a statement of appeal to the Appellate Department, objecting to the primary decision that dismissed the Case in which Appellant requests annulling decision of Appellee (ZATCA) regarding the reassessment for April 2018 on the ground that neither the Primary Department nor Appellee examined the statements provided by the Company that include detailed purchase information. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal and annul the primary decision.

In response to Appellant statement, Appellee submitted a counter-argument, summarized as follows: "It was excluded due to failure to provide the supporting documents for deduction of purchases in accordance with Article (48) of the Common VAT Agreement of the States of the GCC".

On Tuesday 17/02/1443 AH corresponding to 13/09/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appellate Department may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appellate Department decision subject of appeal have been reviewed. After discussion and deliberation, Department decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Since the appeal was filed by a party having capacity and within the statutory period and met its statutory requirements in accordance with Paragraph (2) of Article (40) of Tax Dispute and Violation Committee. Therefore, the appeal is accepted in form.

On Merits: The Appellate Department, having taken cognizance of Case documents, and examined the memorandums and answers provided by both parties, found that Appellant objects to the primary decision that dismissed the claim regarding the reassessment of April 2018 regarding standard-rated VAT local purchases. The dispute involves Appellant's objection to the primary decision on the ground of validity of Appellant's position and accuracy of VAT return filed, considering that all purchase amounts are duly supported by documents. In addition, a sample was provided to Appellee during audit phase upon its request; however, Appellant noted that the file size was too large to send via e-mail and requested an on-site audit to validate the documents. Since Appellant provided a sample of purchase invoices, and that these invoices met the requirements of tax invoice in accordance with Paragraph (5) of Article (53) of the Implementing Regulations of the Law of Value Added Tax. Since its established from the statements and



documents provided in the Case that Appellant exercised the due diligence and cooperated with Appellee by providing the required documents and samples. Since Appellee did not challenge the validity of documents provided by Appellant. Therefore, the Appellate Department accepts the appeal and annuls the primary decision.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Accept the appeal filed by ..., holder of National ID No. (...) in form for being filed within the statutory period.

Second: Accept the appeal filed by (...) Company, C.R. No. (...), regarding (Standard-Rated VAT Local Purchases) item, annul First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1635), and annul Appellee's decision.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-717)
Delivered in Appeal No. (V-
97583-2022)

Key words:

Value Added Tax – Final Assessment of (Standard-Rated VAT Local Purchases) item – Misdeclaration Penalty – Late Payment Fine – Lack of Sufficient Clarification of VAT Amount Due – Invoice Dated After Effective Date of the Implementing Regulations of Real Estate Transaction Tax Law – Effective Date of Real Estate Transaction Tax Law.

Abstract

Appellant requests annulling Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VSR-2021-1487) in Case filed by ... against ZATCA. The Department also convened to consider the appeal filed on 14/03/2022 AD by ZATCA against Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VSR-2021-1487) in the Case filed by ... against ZATCA, which dismissed Plaintiff's claim regarding the final assessment of (Standard-Rated VAT Local Purchases) item and annulled Defendant's decision regarding misdeclaration penalty resulting from the final assessment for tax period, subject matter of the disputes. ZATCA answered that the invoice provided by Plaintiff is not a simplified tax invoice and lacks one of the essential elements of a tax invoice, in addition to the lack of a clear indication of VAT amount in Saudi Riyals. The Appellate Department found that the decision of Appellee (ZATCA) was based on Plaintiff's failure to provide invoices that meet the criteria of a valid tax invoice, and that the invoice submitted was dated after the Real Estate Transaction Tax Law came into effect. Since the Appellate Department found, based on the statements and documents provided in the Case, that the date of purchase preceded the effective date of the Real Estate Transaction Tax Law. Therefore, the Department accepts the appeal and annuls the decision of Appellee (ZATCA). Regarding the appeal filed by ZATCA with respect to annulling primary decision concerning the fines, it is established that the contested decision is consistent with provisions of the Law and is based on sound reasoning sufficient to support its ruling, since the Primary Department thoroughly examined the dispute and reached the conclusion stated in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection in light of the arguments raised before it. Therefore, this Department concludes that such arguments have no effect on the outcome of decision. Thereupon, Accept the appeals in form, and on merits to: Dismiss the appeal filed by (...), holder of National ID No. (...), regarding standard-rated VAT local purchases and annuls Second Department's decision. Dismiss ZATCA appeal regarding misdeclaration penalty and upholds Second Department's decision.

Instruments:

- Article (49) and (53.5.g) of [the Implementing Regulations of the Law of Value Added Tax issued by ZATCA Board of Directors Resolution No. \(3839\) dated 14/12/1438 AH.](#)



- Article (15.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:



On Tuesday, 17/02/1443 AH corresponding to 13/09/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed by Royal Order No. (65474) dated 23/12/1439 AH, in accordance with Paragraph (5) of Article (67) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, convened at its headquarters in Riyadh to consider the appeal filed on 10/03/2022 AD by ..., holder of National ID No. (...), in Appellant's own capacity regarding Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. Decision No. (VSR-2021-1487) in the Case filed by ... Against ZATCA.

The Department also convened to consider the appeal filed on 14/03/2022 AD by ZATCA against Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VSR-2021-1487) in the Case filed by ... Against ZATCA.

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of The Primary Department ruled the following:

First: In Form: In form:

- Accept the Case in form.

Second: On merits:

- Dismiss the Case filed by Plaintiff regarding the final assessment of (Standard-Rated VAT Local Purchases) item for tax period in question.
- Annul Defendant's decision regarding misdeclaration penalty resulting from the final assessment for tax period, subject matter of the dispute.

As this decision was not accepted by either party, the Appellant to the Appellate Department, objecting to the primary decision that dismissed the claim regarding the final assessment for tax period related to the fourth quarter of 2020. Appellant requests annulling primary decision and deducting of input VAT in the amount of SAR 180,000 resulting from the purchase of a plot of land during the tax period in question. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal and annul the primary decision.

Having presented the Appellant's statement to the Appellee (ZATCA), the Appellee responded as follows: "1. The invoice provided by Plaintiff is not a simplified invoice, as the total value of supply stated in the invoice renders it a non-simplified tax invoice in accordance with Article (53) of the Implementing Regulations of the Law of Value Added Tax. The aforementioned article stipulates in Paragraph (7) that a simplified invoice applies to supplies with a value of less than one thousand riyals.

2. After reviewing the invoice provided by Plaintiff and applying the necessary terms and conditions for its acceptance as a complete tax invoice, it turns out that one of the key elements of tax invoice is missing, namely the requirement stated in Paragraph (5.g) of Article (53) of the Implementing Regulations of the Law of Value Added Tax that stipulates: "A Tax Invoice must include the following details in Arabic, in addition to any other language also shown on the Tax Invoice as a translation: ... (g) the date on which the Supply took place, where this differs from the date of issue of the Tax Invoice". In addition, it turned out that there is no clear indication of VAT amount due in Saudi Riyals, as the amount stated only reflects the value of supply before and after VAT without specifying VAT amount applicable to the supply. 3. ZATCA refers to its previous arguments in the initial answer, which clarified the issue regarding the invoice attached by Plaintiff in the statement of appeal, and confirms that the invoice is dated after the effective date of the Implementing Regulations of Real Estate Transaction Tax Law, meaning that it was issued after the start of the exemption period as stipulated in Article (49) of the Implementing Regulations of the Law of Value Added Tax".



In addition, Appellant (ZATCA), in its capacity as Defendant, filed an appeal to the Appellate Department, objecting to the primary decision regarding misdeclaration penalty. ZATCA requests imposing fines resulting from the reassessment for tax period in question. In addition, Appellant (ZATCA) concluded the statement of appeal by requesting the Department to accept the appeal and annul the primary decision.

On Tuesday 17/02/1443 AH corresponding to 13/09/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appellate Department may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appellate Department decision subject of appeal have been reviewed. After discussion and deliberation, the Department decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas, appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its regulatory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: The Appellate Department, having taken cognizance of Case documents and examined the documents included therein, and after reviewing memorandums and answers provided by both parties, found that the primary decision dismissed the Case filed by Appellant (...) regarding the annulment of the decision issued by Appellee (ZATCA) regarding the final assessment for the fourth quarter of 2020 (Purchases) item. Since Appellant challenges the primary decision and requests deducting input VAT in the amount of SAR 180,000 resulting from the purchase of a plot of land during the tax period in question. Since the decision of Appellee (ZATCA) is based on Appellant's failure to provide invoices that meet the requirements of tax invoice in accordance with Article (53) of the Implementing Regulations of Law of Value Added Tax, and that the invoice provided by Appellant is dated after the effective date of the Implementing Regulations of Real Estate Transaction Tax Law. Since Appellant provided Title Deed No. (...) proving the transfer of ownership of land, Plot No. (...), from Plan No. (...), located in ... district in Makkah, for SAR 1,200,000 on 12/02/1442 AH corresponding to 29/09/2020 AD, along with VAT of SAR 180,000, in addition to submitting the payment cheques issued to (...) on 27/09/2020 covering price of land and VAT amount. Since the Appellate Department found, based on the statements and documents provided in the Case, that the date of purchase precedes the effective date of the Real Estate Transaction Tax Law. Therefore, the Appellate Department accepts the appeal and annuls the decision of Appellee (ZATCA).

Regarding the appeal filed by ZATCA regarding the annulment of the primary decision regarding (Fines) item, Appellant requests imposing misdeclaration penalty resulting from the reassessment for tax period in question. Since the contested decision was consistent with provisions of the Law and based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection based on the arguments raised before it. Therefore, this Department determines that these arguments did not affect the outcome of decision. Therefore, Appellate Department concludes acknowledgment of appeal rejection the support of Appellate Department decision it reached in this clause, attributed to its Grounds.

Therefore, and after due deliberation, Department unanimously decided the following:



Decision:

First: In Form: Regarding the appeal filed by ...:

1. Accept ZATCA's appeal in form.
2. Accept the appeal filed by (...), holder of National ID No. (...), regarding (Standard-Rated VAT Local Purchases) item, and annul Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VSR-2021-1487).

Second: With regard to ZATCA Appeal:

1. Accept ZATCA's appeal in form.
2. Dismiss ZATCA Appeal regarding misdeclaration penalty, and uphold Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VSR-2021-1487).

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Value Added and Excise Tax Violations and Disputes

Decision No. (VA-2022-441)
Delivered in Appeal No. (V-2021-59245)

Key words:

Appeal – Value Added Tax – Real Estate Purchase – Accepting Appeal in Form and Dismissing it on Merits.

Abstract

Appellant requests annulling primary decision that dismissed Appellant's claim for a refund of VAT amount resulting from the purchase of a property. Appellant based his objection on the fact that the property was sold to him by his father. Appellee answered by satisfying with the memorandums submitted via the portal of the General Secretariat of Tax Committees and maintained the arguments and defenses set out therein. The Appellate Department found that the contested decision, subject matter of appeal, was based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection based on the arguments raised before it. Therefore, this Department dismisses the appeal and upholds the primary decision based on its Grounds. Thereupon, the Department accepts the appeal in form and dismisses it on merits.

Instruments:

- Article (40.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 27/06/2022 AD, First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, formed by Royal Decree No. (M/1) dated 15/01/1425 AH, convened to consider the appeal filed on 14/07/2021 AD by ..., holder of National ID No. (...), in Appellant's own capacity regarding Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh No. Decision No. (VSR-2021-246) in the Case filed by Appellant against Appellee.

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of The Primary Department ruled the following:

First: In Form: In form:

- Accept the Case filed by Plaintiff in form.

Second: On merits:

- Dismiss the Case filed by Plaintiff (...), National ID No..... against Defendant (... Group).



Dissatisfied with this decision, Appellant submitted a statement of appeal to the Appellate Department, objecting to the primary decision that dismissed the claim against Appellee, in which Appellant requests refunding VAT amount resulting from the purchase of a property. Appellant requests annulling the primary decision on the ground that the property was sold to him by his father. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal and annuls the primary decision.

On Monday, 23/05/1443 AH corresponding to 27/12/2021 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Department sessions may be held via modern technical means provided by General Secretariat." Case file, all memorandums, documents and Primary Department's decision, subject matter of appeal were reviewed. After discussion and deliberation, the Department decided to adjourn considering the Case to Tuesday, 04/01/2022 AD, 01:00 PM, provided that the parties are notified to appear.

On Tuesday 31/05/1443 AH corresponding to 04/01/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Department sessions may be held via modern technical means provided by General Secretariat." Case file, all memorandums, documents and primary decision, subject matter of appeal, were reviewed. Having called the parties, the Department found that Appellant, ..., holder of National ID No. (...), In addition, ..., holder of National ID No. (...), under POA No. (...). At that session, the Department asked Appellant about the claim. Therefore, Appellant gave an answer that does not differ from the previous statements, and that he satisfies with the statement of appeal and memorandums filed through the portal of the General Secretariat of Tax Dispute and Violation Committees, in addition to insisting on the evidence and arguments included therein. Having presented the same to Appellee, Appellee gave an answer that does not differ from the previous statements included in the answer, and that he satisfies with the memorandums filed through the portal of the General Secretariat of Tax Dispute and Violation Committees, in addition to insisting on the evidence and arguments included therein. After discussion and deliberation, the Department decided to adjourn consideration of the Case for taking cognizance and further study.

On Tuesday 03/09/1443 AH corresponding to 04/04/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Circuit sessions may be held using modern technological means provided by the General Secretariat". In addition, Case file, all memorandums, documents and primary decision, subject matter of appeal, were reviewed. After discussion and deliberation, the Department decided to adjourn the session for further study.

On Monday, 21/11/1443 AH corresponding to 20/06/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Circuit sessions may be held using modern technological means provided by the General Secretariat". Case file, all memorandums, documents and primary decision, subject matter of appeal, were reviewed. After discussion and deliberation, the Department decided to adjourn the session for a later date, and instruct Appellee to provide evidence on paying VAT amount to the first seller, considering that the Bank that owns the property, and that there are two suppliers.

On Tuesday 27/12/1443 AH corresponding to 26/07/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Department sessions may be held via modern technical



means provided by General Secretariat.” Case file, all memorandums, documents and primary decision, subject matter of appeal, were reviewed. After discussion and deliberation, the Department decided to adjourn the session for adjudication.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Since the appeal was filed by a party having capacity and within the statutory period and met its statutory requirements in accordance with Paragraph (2) of Article (40) of Tax Dispute and Violation Committee. Therefore, the appeal is accepted in form.

On Merits: On Merits: The Appellate Department, having taken cognizance of Case file and documents included therein, and after reviewing memorandums and answers provided by both parties, found that the decision delivered by the Primary Department ruled to accept the Case filed by Appellant (...) regarding the claim to refund VAT amount resulting from the purchase of a property from Appellee. Since it is established that the contested decision regarding the dispute, subject matter of consideration, is consistent with provisions of the Law and is based on sound reasoning sufficient to support its ruling, since the Primary Department thoroughly examined the dispute and reached the conclusion stated in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection in light of the arguments raised before it. Therefore, this Department concludes that such arguments have no effect on the outcome of decision. Based on the foregoing, the Department concludes to reject the Appeal and uphold the decision of the Primary Department, as supported by its reasoning.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Accept the appeal filed by ..., holder of National ID No. (...) in form for being filed within the statutory period.

Second: Dismiss the appeal filed by ..., holder of National ID No. (...), and uphold Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (...).

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-446)
Delivered in Appeal No. (V-
2021-72404)

Key words:

Appeal – Value Added Tax – Contract Notarization Fees – Sales – Purchases – Misdeclaration
Penalty – Late Payment Fine.

Abstract

Appellant (...) requests annulling decision of Appellee (ZATCA) regarding the reassessment of April 2018, and imposing additional VAT under (Sales) item and (Purchases) item. Appellant (...) objects to ZATCA decision regarding (Misdeclaration and Late Payment Fine) item. In addition, ZATCA filed an appeal against the primary decision in connection with (Contract Notarization Fees), since ZATCA requests subjecting item to standard-rated VAT. Appellant grounded the objection regarding (Sales) item and (Purchases) item on deducting charitable purchases declared, in addition to deducting water expenses on the ground that such expenses are collected to cover tenant's water consumption. ZATCA grounded the objection regarding (Contract Notarization Fees) item on the ground that the Appellee (...) had acknowledged providing a service to its clients. Appellee (ZATCA) answered regarding (Sales) item and (Purchases) item that ZATCA derecognized purchases related to Plaintiff's charitable activities. Regarding water expenses, Appellee maintained that receiving any amount in exchange for providing a specific service constitutes a taxable supply subject to the standard rate. Regarding (Misdeclaration Penalty and Late Payment Fine) item, ZATCA stated in its response to Appellant before the First Department that the fines had been fully canceled. Regarding (Contract Notarization Fees) item, Appellee (...) answered that such amounts are collected and paid through Ejar platform at the time of registration and contract notarization, and they do not, under any circumstances, outline revenue for the Enterprise. Regarding (Sales) item and (Purchases) item, the Appellate Department found that the contested decision was based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection based on the arguments raised before it. Therefore, this Department determines that these arguments did not affect the outcome of decision. Thereupon, the Department dismisses the appeal and upholds the primary decision based on its Grounds. Regarding (Misdeclaration Penalty and Late Payment Fine) item: The Department found that the objective of Appellant's request has been fulfilled by ZATCA acknowledgment of the cancellation of fines for the period in question. Regarding (Contract Notarization Fees) item, the Department did not find any requirement for reconsideration or objection in light of arguments raised before this Department. As such, the Department dismisses ZATCA appeal and upholds the primary decision based on its Grounds. Regarding ... appeal: Accept the appeal in form and dismiss it on merits regarding sales, purchases and water expenses, and establish resolution of the dispute regarding misdeclaration penalty and late payment fine. With regard to ZATCA Appeal: Accept the appeal in form and dismiss it on merits regarding contract notarization fees.



Instruments:

- Article (40.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 01/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed by Royal Order No. (65474) dated 23/12/1439 AH, in accordance with Paragraph (5) of Article (67) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, convened at its headquarters in Riyadh, to consider appeal filed on 27/09/2021 AD by ... holder of National ID No. (...), in his capacity as the authorized person for ... Endowments, C.R. No. (...), regarding First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VR-2021-341) in the Case filed by ... Enterprise for Managing ... Endowments Against ZATCA.

The Department also convened to consider the appeal filed on 29/09/2021 AD by ZATCA against First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VR-2021-341) in the case filed by ... Enterprise for Managing ... Endowments Against ZATCA.

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of The Primary Department ruled the following:

First: In Form: In form:

- Accept Plaintiff's case in form.

Second: On merits:

- Dismiss the Case filed by Plaintiff (...), C.R. No. (...) to cancel ZATCA's decision to reassess the tax for April 2018 and impose an additional VAT of SAR 238,903.56, excluding the contract notarization item, and order that ZATCA recalculates the VAT after deducting the contract notarization item.
- and establish cancellation of misdeclaration penalty in the amount of SAR 50,919.47 and late payment fine in the amount of SAR 142,574.52.

Dissatisfied with this decision by both parties, Appellant (...) submitted a statement of appeal to the Appellate Department, which included his objection to the Department's decision to dismiss his case regarding the final assessment for the tax period related to April 2018 (sales and purchases items) and the resulting fines. The Appellant requested that the Primary Department's decision be reversed and the charitable purchases declared be deducted, in addition to deducting water expenses, as they are collected to cover the tenant's water consumption. The petition concluded with a request to accept the appeal and overturn the Department's decision.

Having presented the statement of appeal to the Appellee (ZATCA), the Appellee responded as follows: "Regarding charitable purchases, the Appellee argues that purchases related to the Plaintiff's charitable activity have been deducted. Regarding water expenses, the Appellee argues that receiving any amount in exchange for performing a specific service is considered a supply subject to the basic tax rate."

In addition, Appellant (ZATCA), in the capacity as Defendant, submitted a statement of appeal to the Appellate Department, objecting to the primary decision regarding (Contract Notarization Fees) item, since Appellant requests that the item is subjected to VAT at the standard rate on the



ground that Appellee (...) acknowledged providing a service to its clients. The appeal concluded by requesting that the appeal be accepted and the Primary Department's decision be amended. Having presented the statement of appeal submitted by Appellant (ZATCA) to Appellee (...), the Appellee responded as follows: "Such amounts are collected and paid through Ejar platform upon registration and contract notarization, and they do not, in any way, constitute revenue for the Enterprise".

On Wednesday 09/11/1443 AH, corresponding to 08/06/2022 AD, First Appellate Department for Value Added and Excise Goods Tax Violations and Disputes held a session to consider the appeal submitted via video conference, based on Paragraph (15.2) of Tax Dispute and Violation Committee Procedures, which stipulates that: "Department sessions may be held via modern technical means provided by General Secretariat." The Case file, all memoranda, documents, and Primary Department's decision under appeal were reviewed. Upon calling the parties, for the Plaintiff appeared, a Saudi National, holder of National ID No. (...), under POA No. (...) in his capacity as the representative of the Waqf Supervisor. For the Defendant appeared Mr....., (Saudi National, under National ID No. (...)) In his capacity as ZATCA's Representative by Authorization Letter No. (...), dated 17/08/1442 AH issued by Vice Governor for Legal Affairs. At the beginning of session, and due to inability to verify the legal capacity of the representative of the Endowment Supervisor, and after review and deliberation, the Department unanimously decided to adjourn the session to a later session due to litigator's failure to properly establish their identity during the session.

On Monday, 28/11/1443 AH corresponding to 27/06/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Department sessions may be held via modern technical means provided by General Secretariat." The Case file, all memoranda, documents, and Primary Department's decision under appeal were reviewed. Upon calling the parties, for the Plaintiff appeared, a Saudi National, holder of National ID No. under POA No. (...) in his capacity as the representative of the Waqf Supervisor. For the Defendant appeared Mr....., (Saudi National, under National ID No. (...)) In his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .../08/1442 AH issued by Vice Governor for Legal Affairs. At the beginning of session, the Department asked both parties if they would like to add any statements or documents, they satisfied with earlier submissions. In addition, Taxpayer's attorney added regarding charitable purchases: They are part of the Enterprise's business activity. After hearing the arguments of both parties, they requested additional time to provide further memorandums regarding the Case. Therefore, the Department decided to adjourn the hearing to a later session.

On Monday, 26/12/1443 AH corresponding to 25/07/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Department sessions may be held via modern technical means provided by General Secretariat." The Case file, all memoranda, documents, and Primary Department's decision under appeal were reviewed. Upon calling the parties, for the Plaintiff appeared, a Saudi National, holder of National ID No. under POA No. (...) in his capacity as the representative of the Waqf Supervisor. For the Defendant appeared Mr....., (Saudi National, under National ID No. (...)) In his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .../08/1442H issued by Vice Governor for Legal Affairs. At the beginning of session, the Department asked both parties if they would like to add any statements or documents, they satisfied with the earlier submissions. Therefore, the Department decided to adjourn the session for further study and deliberation.

On Monday, 03/01/1444 AH corresponding to 01/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee



Procedures that stipulates: "Sessions of Appellate Department may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appellate Department decision subject of appeal have been reviewed. After discussion and deliberation, Department decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Since the appeal was filed by a party having capacity and within the statutory period and fulfilled its statutory requirements in accordance with Paragraph (2) of Article (40) of Tax Dispute and Violation Committee Procedures. Therefore, the Department accepts the appeal in form.

On Merits: The Appellate Department, having taken cognizance of Case file and documents included therein, and after reviewing memorandums and answers provided by both parties, found that the decision delivered by the Primary Department ruled to accept the Case filed by Appellant (...) regarding the annulment of the decision of Appellee (ZATCA) regarding the final assessment for April 2018 related to (Sales) item and (Purchases) item and the arising fines. Regarding objection to (Sales) item and (Purchases) item, since it is established that the contested decision regarding the dispute, subject matter of consideration, is consistent with provisions of the Law and is based on sound reasoning sufficient to support its ruling, since the Primary Department thoroughly examined the dispute and reached the conclusion stated in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection in light of the arguments raised before it. Therefore, this Department concludes that such arguments have no effect on the outcome of decision. Based on the above, the Department concluded by dismissing the appeal submitted by..... Company and uphold the Primary Decision with regard to its conclusions based on the Grounds stated therein.

Regarding Appellant's objection to misdeclaration penalty and late payment fine, since ZATCA confirmed in the response letter to Appellant before the First Department that the fines were fully canceled. Given that this is the case, Appellant's intended purpose from the request is deemed to have been achieved through ZATCA acknowledgment of the cancellation of fines for the period in question. Therefore, the Appellate Department concludes that the dispute between the parties is considered resolved.

Regarding ZATCA appeal concerning the request to annul the primary decision regarding (Contract Notarization Fees) item, since ZATCA requests to subject this item to VAT at the standard rate on the ground that Appellee (...) acknowledged providing a service to its clients. Since it is established that the contested decision regarding the dispute, subject matter of consideration, is consistent with provisions of the Law and is based on sound reasoning sufficient to support its ruling, since the Primary Department thoroughly examined the dispute and reached the conclusion stated in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection in light of the arguments raised before it. Therefore, this Department concludes that such arguments have no effect on the outcome of decision. As such, the Department dismisses ZATCA appeal and upholds the primary decision based on its Grounds. Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Regarding the appeal filed by ...:

1. Accept the appeal in form.
2. Dismiss the appeal filed by ..., C.R. No. (...), regarding standard-rated VAT local purchases, and uphold First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (...).



3. Dismiss the appeal filed by ..., C.R. No. (...), regarding water expenses, and uphold First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (...).
4. Dismiss the appeal filed by ... C.R. No. (...), regarding standard-rated VAT local sales, and uphold First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (...).
5. Establish resolution of the dispute regarding the Misdeclaration Penalty.
6. Establish resolution of the dispute regarding the Late Payment Penalty.

Second: With regard to ZATCA Appeal:

1. Accept the appeal in form.
2. Dismiss ZATCA appeal regarding contract notarization fees and uphold First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (...).

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-447)
Delivered in Appeal No. (V-
2021-72406)

Key words:

Appeal – Value Added Tax – Contract Notarization Fees – Sales – Purchases – Misdeclaration Penalty – Late Payment Fine.

Abstract

Appellant (...) requests annulling the decision of Appellee (ZATCA) regarding the reassessment for May 2018 and imposing VAT on (Sales) item and (Purchases) item. In addition, Appellant (...) objects to ZATCA decision regarding (Misdeclaration Penalty and Late Payment Fine) item. In addition, ZATCA filed an appeal against the primary decision in connection with (Contract Notarization Fees) item, since ZATCA requests subjecting item to standard-rated VAT. Appellant (...) grounded the objection regarding (Sales) item and (Purchases) item on deducting charitable purchases declared, in addition to deducting water expenses on the ground that such expenses are collected to cover tenant's water consumption. ZATCA grounded the objection regarding (Contract Notarization Fees) item on the ground that the Appellee (...) had acknowledged providing a service to its clients. Appellee (ZATCA) answered regarding (Sales) item and (Purchases) item that ZATCA derecognized purchases related to Plaintiff's charitable activities. Regarding water expenses, Appellee maintained that receiving any amount in exchange for providing a specific service constitutes a taxable supply subject to the standard rate. Regarding (Misdeclaration Penalty and Late Payment Fine) item, ZATCA stated in its response to Appellant before the First Department that the fines had been fully canceled. Regarding (Contract Notarization Fees) item, Appellee (...) answered that such amounts are collected and paid through Ejar platform at the time of registration and contract notarization, and they do not, under any circumstances, outline revenue for the Enterprise. Regarding (Sales) item and (Purchases) item, the Appellate Department found that the contested decision was based on well-founded reasoning and sufficient justification, as the Primary Department thoroughly examined the dispute and reached the conclusion included in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection based on the arguments raised before it. Therefore, the Department dismisses the appeal and upholds the primary decision based on its Grounds. Regarding (Misdeclaration Penalty and Late Payment Fine) item, the Department found that the objective of Appellant's request has been fulfilled by ZATCA acknowledgment of the cancellation of fines for the period in question. Therefore, the Appellate Department establishes resolution of the dispute between the parties. Regarding (Contract Notarization Fees) item, the Department did not find any requirement for reconsideration or objection in light of arguments raised before this Department. Therefore, regarding ... appeal: The Department accepts the appeal in form and dismisses it on merits regarding sales, purchases and water expenses, and establishes resolution of the dispute over misdeclaration penalty and late payment fine. Regarding ZATCA appeal: Accept the appeal in form and dismiss it on merits regarding contract notarization fees.



Instruments:

- Article (40.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:



Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 01/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed by Royal Order No. (65474) dated 23/12/1439 AH, in accordance with Paragraph (5) of Article (67) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, convened at its headquarters in Riyadh to consider the appeal filed on 27/08/2021 AD by ..., holder of National ID No. (...), in his capacity as the authorized person for managing ... Endowments, C.R. No. (...), regarding First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VR-2021-341) in the Case filed by ... Enterprise for Managing Endowments Against ZATCA.

The Department also convened to consider the appeal filed on 29/09/2022 AD by ZATCA against First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (VR-2021-341) in the Case filed by ... Enterprise for Managing Endowments Against ZATCA.

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of The Primary Department ruled the following:

First: In Form: In form:

- Accept Plaintiff's case in form.

Second: On merits:

- Dismiss the Case filed by Plaintiff (...), C.R. No. (...), by annulling ZATCA decision regarding the reassessment for May 2018 and imposing additional VAT in the amount of SAR 168,947.52, except for (Contract Notarization Fees) item, while instructing ZATCA to recalculate VAT after deducting (Contract Notarization Fees) item.
- and establish cancellation of misdeclaration penalty in the amount of SAR 14,386 and late payment fine in the amount of SAR 48,552.75.

Dissatisfied with this decision by both parties, Appellant (...) submitted a statement of appeal to the Appellate Department, objecting to the primary decision that dismissed its claim regarding the final assessment for tax period related to May 2018 (Sales) item and (Purchases) item and arising fines. Appellant requests annulling the primary decision, deducting charitable purchases declared and deducting water expenses, since they are collected to pay tenant's water consumption. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal and annul the primary decision.

Having presented the statement of appeal to the Appellee (ZATCA), the Appellee responded as follows: "Regarding charitable purchases, the Appellee argues that purchases related to the Plaintiff's charitable activity have been deducted. Regarding water expenses, the Appellee argues that receiving any amount in exchange for performing a specific service is considered a supply subject to the basic tax rate."

In addition, Appellant (ZATCA), in the capacity as Defendant, submitted a statement of appeal to the Appellate Department, objecting to the primary decision regarding (Contract Notarization Fees) item, since Appellant requests that the item is subjected to VAT at the standard rate on the ground that Appellee (...) acknowledged providing a service to its clients. The appeal concluded by requesting that the appeal be accepted and the Primary Department's decision be amended.



Having presented the statement of appeal submitted by Appellant (ZATCA) to Appellee (...), the Appellee responded as follows: "Such amounts are collected and paid through Ejar platform upon registration and contract notarization, and they do not, in any way, constitute revenue for the Enterprise".

On Wednesday, 09/11/1443 AH corresponding to 08/06/2022 AD, First Appellate Department for Value Added Tax and Excise Goods Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Department sessions may be held via modern technical means provided by General Secretariat." The Case file, all memoranda, documents, and Primary Department's decision under appeal were reviewed. Upon calling the parties, for the Plaintiff appeared, a Saudi National, holder of National ID No. under POA No. (...) in his capacity as attorney of (...). In addition, ..., (Saudi National, under National ID No. ...) In his capacity as ZATCA's Representative by Authorization Letter No. (...), dated ../08/1442 AH issued by Vice Governor for Legal Affairs. At the beginning of session, and due to inability to verify the legal capacity of the representative of ..., and after review and deliberation, the Department unanimously decided to adjourn the session to a later session due to litigator's failure to properly establish their identity during the session.

On Monday, 28/11/1443 AH corresponding to 27/06/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Department sessions may be held via modern technical means provided by General Secretariat." The Case file, all memoranda, documents, and Primary Department's decision under appeal were reviewed. Upon calling the parties, for the Plaintiff appeared, a Saudi National, holder of National ID No. under POA No. (...) in his capacity as the representative of the Waqf Supervisor. For the Defendant appeared Mr....., (Saudi National, under National ID No. ...) In his capacity as ZATCA's Representative by Authorization Letter No. (...), dated ../08/1442 AH issued by Vice Governor for Legal Affairs. At the beginning of session, the Department asked both parties if they would like to add any statements or documents, they satisfied with earlier submissions. In addition, Taxpayer's attorney added regarding charitable purchases that they are part of the Enterprise's business activity. After hearing the arguments of both parties, they requested additional time to provide further memorandums regarding the Case. Therefore, the Department decided to adjourn the hearing to a later session.

On Tuesday 26/12/1443 AH corresponding to 25/07/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Department sessions may be held via modern technical means provided by General Secretariat." The Case file, all memoranda, documents, and Primary Department's decision under appeal were reviewed. Upon calling the parties, for the Plaintiff appeared, a Saudi National, holder of National ID No. under POA No. (...) in his capacity as the representative of the Waqf Supervisor. For the Defendant appeared Mr....., (Saudi National, under National ID No. ...) In his capacity as ZATCA's Representative by Authorization Letter No. (...), dated ../08/1442 AH, issued by the Deputy Governor for Legal Affairs, at the beginning of the session, when both parties were asked what they would like to add, they replied that they were satisfied with their earlier submissions. Accordingly, the Department decided to postpone consideration of the case for further study and consideration.

On Monday, 03/01/1444 AH corresponding to 01/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appellate Department may be held via modern technological means provided by General Secretariat." Case file, including memoranda and



documents, and Appellate Department decision subject of appeal have been reviewed. After discussion and deliberation, Department decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: The Appellate Department, having taken cognizance of Case file and documents included therein, and after reviewing memorandums and answers provided by both parties, found that the decision delivered by the Primary Department ruled to accept the Case filed by Appellant (...) regarding the annulment of the decision of Appellee (ZATCA) regarding the final assessment for April 2018 related to (Sales) item and (Purchases) item and the arising fines. Regarding objection to (Sales) item and (Purchases) item, since it is established that the contested decision regarding the dispute, subject matter of consideration, is consistent with provisions of the Law and is based on sound reasoning sufficient to support its ruling, since the Primary Department thoroughly examined the dispute and reached the conclusion stated in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection in light of the arguments raised before it. Therefore, this Department concludes that such arguments have no effect on the outcome of decision. Based on the above, the Department concluded by dismissing the appeal submitted by..... Company and uphold the Primary Decision with regard to its conclusions based on the Grounds stated therein.

Regarding Appellant's objection to misdeclaration penalty and late payment fine, since ZATCA confirmed in the response letter to Appellant before the First Department that the fines were fully canceled. Given that this is the case, Appellant's intended purpose from the request is deemed to have been achieved through ZATCA acknowledgment of the cancellation of fines for the period in question. Therefore, the Appellate Department concludes that the dispute between the parties is considered resolved.

Regarding ZATCA appeal concerning the request to annul the primary decision regarding (Contract Notarization Fees) item, since ZATCA requests to subject this item to VAT at the standard rate on the ground that Appellee (...) acknowledged providing a service to its clients. Since it is established that the contested decision regarding the dispute, subject matter of consideration, is consistent with provisions of the Law and is based on sound reasoning sufficient to support its ruling, since the Primary Department thoroughly examined the dispute and reached the conclusion stated in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection in light of the arguments raised before it. Therefore, this Department concludes that such arguments have no effect on the outcome of decision. As such, the Department dismisses ZATCA appeal and upholds the primary decision based on its Grounds. Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Regarding the appeal filed by ...:

1. Accept the appeal in form.
2. Dismiss the appeal filed by ..., C.R. No. (...), regarding standard-rated VAT local purchases, and uphold First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (...).



3. Dismiss the appeal filed by C.R. No. (...), regarding water expenses and uphold First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (...).
4. Dismiss the appeal filed by ..., C.R. No. (...), regarding standard-rated VAT local sales, and uphold First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (...).
5. Establish resolution of the dispute regarding the Misdeclaration Penalty.
6. Establish resolution of the dispute regarding the Late Payment Penalty.

Second: With regard to ZATCA Appeal:

1. Accept the appeal in form.
2. Dismiss ZATCA appeal regarding contract notarization fees and uphold First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh Decision No. (...).

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-479)
Delivered in Appeal No. (V-
85692-2021)

Key words:

Value Added Tax – Final Assessment for Tax Period – Standard-Rated VAT Local Sales – Misdeclaration Penalty – Late Payment Fine – Sale in Installments.

Abstract

Appellant requests annulling First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam decision regarding the final assessment for tax period of December 2018 filed by Appellant against ZATCA, along with the appeal filed by ZATCA against First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam decision in the Case filed by ... Company against ZATCA. On Merits: Regarding the appeal concerning the final assessment for tax period of December 2018 filed by Appellant against ZATCA, wherein Appellant objects to the decision of the Primary Department on the ground that it dismissed the Case without considering the contested items. The Appellate Department found that the basis of primary decision to dismiss the case was Appellant (... Company) benefit from the initiative. Therefore, Appellant is not entitled to object to (Sales) item. However, based on the statements and documents provided in the Case, the Appellate Department finds no evidence that Appellant (... Company) benefited from the initiative. Since ZATCA filed an appeal regarding the fines and did not mention the initiative's applicability during adjudication phase. Since the Appellate Department found that the Primary Department did not examine the details of the contested item and thus did not exhaust its judicial jurisdiction over the item, subject matter of appeal. Therefore, the Appellate Department accepts the appeal regarding this item, and remands the Case to the Primary Department. Regarding ZATCA appeal concerning the request to annul the primary decision regarding (Fines) item, Appellant requests imposing misdeclaration penalty and late payment fine resulting from the reassessment for tax period in question. Since imposing fines was due to the final reassessment for tax period in question. Since the above item resulted in accepting appeal and referring the Case back to the Primary Department. Since the related matters shall have the same effect. Therefore, the Department accepts the appeal regarding this item. Thereupon: The Department accepts the appeal regarding standard-rated VAT local sales and annuls the primary decision. Regarding ZATCA appeal: Accept ZATCA appeal regarding misdeclaration penalty and late payment fine and annul the primary decision.

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Monday, 01/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed by Royal Order No. (65474) dated 23/12/1439 AH, in accordance with Paragraph (5) of Article (67) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended by Royal Decree No. (M/113) dated 02/11/1438



AH, convened at its headquarters in Riyadh, to consider the appeal filed on 09/12/2021 AD by ... Company C.R. No. regarding First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam Decision No. (VD-2021-1363) in the Case filed by ... Against ZATCA. The Department also convened to consider the appeal filed on 09/12/2022 AD by ZATCA against First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam Decision No. (VD-2021-1363) in the Case filed by ... Since facts of this case have been stated in the decision subject matter of appeal, the Appellate Department refers to this decision to avoid repetition. Whereas decision of The Primary Department ruled the following:

First: In Form: In form:

- Accept Plaintiff's case in form.

Second: On merits:

- - Accept the Case filed by ... Company, C.R. No. (...), regarding the cancellation of fines imposed for tax period in question.
- Dismiss the Case filed by ... Company, C.R. No. regarding the request to refund VAT for tax period in question.

Dissatisfied with this decision by both parties, Appellant (... Company) submitted a statement of appeal to the Appellate Department, objecting to the primary decision the dismissed the claim regarding the final assessment for tax period of December 2018. Appellant requests annulling the primary decision on the ground that the Primary Committee did not consider the objection related to (Standard-Rated VAT Local Sales) item. In addition, the decision concluded with dismissing claim based on Appellant's benefit from Ministerial Resolution No. (622) concerning the Penalty Waiver Initiative. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal and annul the primary decision.

Having presented the statement of appeal of Appellant (... Company) to the Appellee (ZATCA), the Appellee responded as follows: "Regarding Plaintiff's objection to amending (Standard-Rated VAT Sales) item, ZATCA acted in accordance with provisions of Paragraph (1) of Article (26) of the Law of Value Added Tax that stipulates: "1. The Authority may conduct a tax assessment of a taxable person irrespective of the tax return filed by him". Moreover, Paragraph (1) of Article (64) of the Implementing Regulations of the Law of Value Added Tax stipulates: "The Authority may make an assessment of the VAT obligations of a Person in respect of one or more ...". This resulted in amending (Standard-Rated VAT Sales) item and amending (Zero-Rated VAT Local Sales) item. In addition, ZATCA insists on validity of the procedure, due to the lack requirements for zero-rated contracts stipulated in Article (79) of the Implementing Regulations of the Law of Value Added Tax. Accordingly, those sales listed under (Zero-Rated VAT Local Sales) item are to be subject to VAT at the standard rate in accordance with provisions of Article (14) of the Implementing Regulations of the Law of Value Added Tax that stipulates: "Without prejudice to the second article of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, Tax is imposed on all Taxable Supplies of Goods and services made in the Kingdom by a Taxable Person, or received in the Kingdom by a Taxable Person in instances where the Reverse Charge Mechanism applies, as well as on Imports of Goods". ZATCA also states that it asked Plaintiff, during the audit of tax returns, to provide supporting documents for the accuracy of its tax return and to justify the variances in revenues between its tax returns and the financial statements in accordance with Paragraph (6) of Article (66) of the Implementing Regulations, which stipulates: "The Authority shall at all times reserve the right to require additional records be provided by a Person for the purposes of registration, examination and assessment procedures in cases where the Authority considers it necessary and has a justifiable reason for such requiring such additional records ...". However, Plaintiff failed to justify the variances and did not provide the required documents, thereby breaching the obligation set out in Article (56) of the Implementing Regulations of the Law of Value Added Tax, which requires Taxpayer to provide ZATCA with any information it may request for the purpose of verifying tax obligations, as such



Article stipulates: “1. All Persons must provide the Authority with any information requested by the Authority for the purposes of establishing whether that Person is complying fully with its Tax obligations”. Regarding late payment fine, having reviewed Plaintiff’s tax return for the tax period in question, and upon determining that the return was inaccurate, which requires amending Plaintiff’s tax return, the resulting variance between the calculated and payable VAT that was not settled within the statutory deadline, misdeclaration penalty and late payment fine were imposed for the months following the tax period, subject matter of objection, in accordance with Paragraph (1) of Article (42) of the Law of Value Added Tax that stipulates: “Any person who files an incorrect tax return to the Authority, amends a tax return after being filed, or files any document with the Authority in relation to the tax due by him which results in an error in the calculation of the tax amount resulting in an amount that is less than the tax due shall be subject to a fine equal to 50% of the difference between the calculated tax and the tax due”. Article (43) of the Law of Value Added Tax stipulates: “Any person who fails to pay the tax due within the period specified by the Regulations shall be subject to a fine equal to 5% of the amount of the unpaid tax for each month or part thereof for which the tax is not paid”.

In addition, Appellant (ZATCA), in the capacity as Defendant, submitted a statement of appeal to the Appellate Department, objecting to the primary decision regarding misdeclaration penalty and late payment fine. ZATCA requests imposing fines resulting from the reassessment for tax period in question. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal and annul the primary decision.

On Tuesday 26/12/1443 AH corresponding to 25/07/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: “Circuit sessions may be held using modern technological means provided by the General Secretariat”. In addition, Case file, all memorandums, documents and primary decision, subject matter of appeal, were reviewed. After discussion and deliberation, the Department decided to adjourn the session for further study.

On Monday 03/01/1444 AH corresponding to 01/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: “Sessions of Appellate Department may be held via modern technological means provided by General Secretariat.” Case file, including memoranda and documents, and Appellate Department decision subject of appeal have been reviewed. After discussion and deliberation, the Department decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas the appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its statutory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: The Appellate Department, having taken cognizance of Case documents and examined the documents included therein, and after reviewing memorandums and answers provided by both parties, found that the primary decision dismissed the Case filed by Appellant (... Company) regarding the annulment of Appellee (ZATCA) decision concerning the final assessment for tax period of December 2018 (Sales) item, since Appellant objects to the primary decision on the ground that the claim was dismissed without considering the contested items. Since the Primary Department issued its decision to dismiss the claim in accordance with the Ministerial



Resolution No. (622) rather than on legal Grounds and justification. Since Appellee (ZATCA) amended the tax return for tax period in question for the following reasons: (Lack of sufficient evidence to prove the occurrence of export in accordance with Article (32) of the Implementing Regulations, sales not meeting requirements for zero-rated contracts in accordance with Article (79) of the Implementing Regulations, out-of-scope sales with no supporting documents submitted, and discrepancies in assets per the financial statements without providing supporting documents). The Appellate Department found that the basis for the primary decision to dismiss the claim was its presumption that Appellant (... Company) benefited from the initiative. Therefore, Appellant is not entitled to object to (Sales) item. However, based on the statements and documents provided in the Case, the Appellate Department finds no evidence that Appellant (... Company) benefited from the initiative. Since ZATCA filed an appeal regarding the fines and did not mention the initiative's applicability under Ministerial Resolution No. (622) during adjudication phase. Since the Appellate Department found that the Primary Department did not examine the details of the contested item and thus did not exhaust its judicial jurisdiction over the item, subject matter of appeal. Therefore, the Appellate Department accepts the appeal regarding this item, and remands the Case to the Primary Department.

Regarding ZATCA appeal concerning the request to annul the primary decision regarding (Fines) item, Appellant requests imposing misdeclaration penalty and late payment fine resulting from the reassessment for tax period in question. Since imposing fines was due to the final reassessment for tax period in question. Since the above item resulted in accepting appeal and referring the Case back to the Primary Department. Since the related matters shall have the same effect. Therefore, the Department accepts the appeal regarding this item.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Regarding the appeal filed by ... Company,

1. Accept the appeal in form.
2. Accept the appeal filed by ... Company, C.R. No. (...), regarding standard-rated VAT local sales, annul First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam Decision No. (VD-2021-1363), and remand the Case to the Primary Department for consideration.

Second: With regard to ZATCA Appeal:

1. Accept the appeal in form.
2. Accept ZATCA appeal regarding misdeclaration penalty and late payment fine, annul First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam Decision No. (VD-2021-1363), and remand the Case to the Primary Department for consideration.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-485)
Delivered in Appeal No. (V-
87306-2021)

Key words:

Appeal – Final Assessment for Tax Period – Standard-Rated VAT Local Sales – Standard-Rated VAT Local Purchases.

Abstract

Appellant requests annulling decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah in the Case related to the final assessment for tax period of December 2018 (Sales) item, filed by Appellant (ZATCA). In addition, Appellant requests considering ZATCA appeal against the decision of the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah regarding (Purchases) item in the Case filed by ... Company against ZATCA. On Merits: Regarding the objection to (Sales) Item, the Appellate Department did not find any Grounds for reconsideration or objection in light of the arguments raised before it. Therefore, this Department concludes that such arguments have no effect on the outcome of decision. Regarding ZATCA appeal concerning the request to annul the primary decision regarding (Purchases) item, and considering ZATCA argument that the Department did not confirm resolution of the dispute regarding this item. Since ZATCA answer indicates that it had rejected the objection raised by Appellee (... Company) regarding (Purchases) item. Since the Appellate Department did not find, based on the statements and documents provided in the Case, that Appellant (ZATCA) requests resolution of the dispute over this item. Therefore, the Appellate Department accepts ZATCA appeal and annuls the primary decision. Thereupon: Regarding the appeal filed by ... Company: Dismiss the appeal of Company regarding standard-rated VAT local sales and uphold First Department's decision. Regarding ZATCA appeal: Accept ZATCA appeal regarding (Standard-Rated VAT Local Purchases) item and annul First Department's decision.

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Monday, 01/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed by Royal Order No. (65474) dated 23/12/1439 AH, in accordance with Paragraph (5) of Article (67) of Income Tax Law, promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, convened at its headquarters in Riyadh to consider the appeal filed on 21/12/2021 AD by ... C.R. No. regarding First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1746) in the Case filed by ... Company Against ZATCA.

The Department also convened to consider the appeal filed on 29/09/2021 AD by ZATCA against First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1746) in the Case filed by ... Company Against ZATCA.



Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of The Primary Department ruled the following:

First: In Form: In form:

- Accept Plaintiff's case in form.

Second: On merits:

- Dismiss Plaintiff's claim regarding (Standard-Rated VAT Local Sales) item for tax period (December 2018) as Defendant's decision was proven to be valid.
- Establish resolution of the dispute over (Standard-Rated VAT Local Purchases) item for December 2018.

Dissatisfied with this decision by both parties, Appellant (... Company) submitted a statement of appeal to the Appellate Department, objecting to the primary decision that dismissed its claim regarding the final assessment for tax period related to December 2018 (Sales) item. Appellant requests annulling the primary decision, as the variances are export services and contracts before 31/05/2017 that are subject to zero-rated VAT. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal and annul the primary decision.

In addition, Appellant (ZATCA), in the capacity as Defendant, submitted a statement of appeal to the Appellate Department, objecting to the primary decision regarding (Purchases) item. Appellant requests annulling primary decision on the ground that no indication was provided by the Committee confirming resolution of the dispute regarding this item. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal and amend the primary decision.

On Tuesday 26/12/1443 AH corresponding to 25/07/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the filed appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Circuit sessions may be held using modern technological means provided by the General Secretariat". In addition, Case file, all memorandums, documents and primary decision, subject matter of appeal, were reviewed. After discussion and deliberation, the Department decided to adjourn the session for further study.

On Monday 03/01/1444 AH corresponding to 01/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appellate Department may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appellate Department decision subject of appeal have been reviewed. After discussion and deliberation, the Department decided to adjourn session and issue decision.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas, appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its regulatory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: The Appellate Department, having taken cognizance of Case documents and examined the documents included therein, and after reviewing memorandums and answers provided by both parties, found that the primary decision dismissed the Case filed by Appellant (... Company) regarding the annulment of the decision of Appellee (ZATCA) regarding the final



assessment for December 2018 (Sales) item. Regarding objection to (Sales) item, since it is established that the contested decision regarding the dispute, subject matter of consideration, is consistent with provisions of the Law and is based on sound reasoning sufficient to support its ruling, since the Primary Department thoroughly examined the dispute and reached the conclusion stated in its wording. Since the Appellate Department did not find any Grounds for reconsideration or objection in light of the arguments raised before it. Therefore, this Department concludes that such arguments have no effect on the outcome of decision. Therefore, the Department dismisses the appeal filed by ... Company and uphold the Primary Decision with regard to its conclusions based on the Grounds stated therein.

Regarding ZATCA appeal concerning the request to annul the primary decision regarding (Purchases) item, ZATCA requests annulling the primary decision on the ground that no indication was provided by the Committee confirming resolution of the dispute regarding this item. Since it is established, according to ZATCA answer, that ZATCA rejected the objection filed by Appellee (... Company) regarding (Purchases) item. Since the Appellate Department found, based on the statements and documents provided in the Case, that Appellant (ZATCA) did not request resolution of the dispute over this item. Therefore, the Appellate Department accepts ZATCA appeal and annuls the primary decision.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Regarding the appeal filed by ... Company:

1. Accept the appeal in form.
2. Dismiss the appeal filed by ... Company, C.R. No. (...), regarding standard-rated VAT local sales, and uphold First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1746).

Second: With regard to ZATCA Appeal:

1. Accept the appeal in form.
2. Accept ZATCA appeal regarding (Standard-Rated VAT Local Purchases) item, annul First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah Decision No. (VJ-2021-1746) and uphold ZATCA procedure.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-511)
Delivered in Appeal No. (V-
85545-2021)

Key words:

Appeal – Value Added Tax – Final Assessment for Tax Period – Sales – Installment Sales.

Abstract

Appellant requests annulling the decision rendered by the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam regarding the final assessment for tax period of January 2018, in the Case filed by Appellant against ZATCA. On Merits: The Appellate Department found that Appellant requests annulling the primary decision and levying zero-rated VAT on profits generated from installment sales, claiming that they constitute exempt financial services. Since the decision was based on Appellant's lack of a license from the Saudi Central Bank to engage in this type of service. Since Appellant provided a license issued by the Ministry of Commerce and Industry in the name of the Enterprise (...) to engage in the activity of installment sales. Since the Appellate Department found that the nature of contracts in dispute and Appellant's business activity in installment sales constitute a financing activity under the applicable laws and regulations in the Kingdom, based on Finance Companies Control Law and statement of the Ministry of Commerce and the Saudi Central Bank. Since Paragraph (5) of Article (29) of the Implementing Regulations of the Law of Value Added Tax is general and does not limit the supplies that are considered exempt financial services. Therefore, the Appellate Department accepts the appeal and annuls the primary decision. Thereupon: The Department accepts the appeal regarding levying VAT on profits generated from installment sales, and annuls the primary decision.

Instruments:

- Article (29.2, 3, 5) of [the Implementing Regulations of the Law of Value Added Tax issued by ZATCA Board of Directors Resolution No. \(3839\) dated 14/14/1438 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Monday, 15/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed by Royal Order No. (65474) dated 23/12/1439 AH, in accordance with Paragraph (5) of Article (67) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, convened at its headquarters in Riyadh to consider the appeal filed on 08/12/2021 AD by ..., C.R. No. regarding First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam Decision No. (VD-2021-1355) in the Case filed by ... Against ZATCA.



Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of The Primary Department ruled the following:

First: In Form: In form:

- Accept Plaintiff's case in form.

Second: On merits:

- Dismiss the Case filed by Plaintiff regarding VAT for tax period in question.
- Establish resolution of the dispute regarding misdeclaration penalty and late payment fine due to the prior cancellation by Defendant.

Dissatisfied with this decision, Appellant submitted a statement of appeal to the Appellate Department, objecting to the primary decision that dismissed the claim regarding the final assessment for tax period of January 2018 (Sales) item. Appellant requests annulling the primary decision regarding the profits generated from installment sales on the ground that such profits constitute exempt financial services in accordance with Article (36) of the Agreement and Article (29) of the Implementing Regulations of the Law of Value Added Tax. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal and annul the primary decision.

Having presented the Appellant's statement to the Appellee (ZATCA), the Appellee responded as follows: "Article (36) of the Agreement stipulates that only licensed banks and financial institutions may provide such services in order to qualify for VAT exemption. However, Appellant engages in installment sales and treats them for VAT purposes as a financing activity, despite not holding a license from the Saudi Central Bank. Furthermore, a review of the Installment Sale Law and its definitions reveals that installment sales do not specify that the final amount paid by the end consumer includes an implicit profit margin. This renders the type of sale carried out by Appellant similar to the concept of financing, which Appellant is not authorized to conduct under any license issued by the Saudi Central Bank".

On Tuesday 11/01/1444 AH, corresponding to 09/08/2022 AD, First Appellate Department for Tax Violations and Disputes Value Added and Excise Goodsheld a session to consider the appeal submitted via video conference, based on Article 15.2 of Tax Dispute and Violation Committee Procedures, which stipulates that: "Department sessions may be held via modern technical means provided by General Secretariat." Case file, all memoranda, and documents were reviewed, along with Primary Department's decision under appeal. Upon calling the parties, for the Appellant appeared Mr....., ID No..... pursuant to PoA No..... For the Appellee appeared Mr....., declared his appearance as attorney for Defendant, under authorization letter No. (...) Dated ../../..... issued by Vice Governor for Legal Affairs. Therefore, the Department decided to open pleadings by asking Appellant about the Case. Appellant answered by satisfying with the statement of appeal and memorandums submitted via the portal of the General Secretariat, and maintains the evidence and arguments included therein. Having presented the same to Appellee's representative, he answered by insisting on the memorandums submitted via the e-portal of the General Secretariat of Zakat, Tax and Customs Committees. Having asked both parties if they would like to add any statements or documents, they satisfied with their earlier submissions. Therefore, the Department decided to adjourn the hearing for further study.

On Monday 17/01/1444 AH corresponding to 15/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures that stipulates: "Sessions of Appellate Department may be held via modern technological means provided by General Secretariat." Case file, including memoranda and documents, and Appellate Department decision subject of appeal have been reviewed. After discussion and deliberation, the Department decided to adjourn session and issue decision.



Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas, appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its regulatory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: The Appellate Department, having taken cognizance of Case documents and examined the documents included therein, and after reviewing memorandums and answers provided by both parties, found that the primary decision dismissed the Case filed by Appellant (...) regarding the request to annul the decision of Appellee (ZATCA) concerning the final assessment for tax period of January 2018 (Sales) item. Appellant requests annulling the primary decision and levying zero-rated VAT on profits generated from installment sales on the ground that such transactions constitute exempt financial services in accordance with Article (36) of the Agreement and Article (29) of the Implementing Regulations for the Law of Value Added Tax. Since the decision was based on Appellant's lack of a license from the Saudi Central Bank to engage in this type of service. Since Appellant provided a license issued by the Ministry of Commerce and Industry in the name of the Enterprise (...) to engage in the activity of installment sales. Since the Ministry of Commerce and Industry is the competent authority for issuing licenses to engage in installment sale activity in accordance with paragraph (a) of Article (9) of the Installment Sale Law dated 04/03/1426 AH corresponding to 13/04/2005 AD, which stipulates that the professional practice of installment sales must be carried out through a company or establishment licensed by the Ministry of Commerce and Industry. Since the Appellate Department found that the nature of contracts in dispute and Appellant's business activity in installment sales constitute a financing activity under the applicable laws and regulations in the Kingdom, based on Finance Companies Control Law and statement of the Ministry of Commerce and the Saudi Central Bank. Since Paragraph (5) of Article (29) of the Implementing Regulations of the Law of Value Added Tax stipulates: "Under the principles described in the second and third paragraphs of this article, the following is a non-exhaustive list of Supplies which would be considered exempt Financial Services: a) interest or lending fees charged with an implicit margin for any form of lending, including loans and credit cards, b) interest or lending fees charged with an implicit margin for a mortgage or under a diminishing musharaka arrangement, c) interest or lending fees charged with an implicit margin for finance, including finance leasing, hire purchase products or under a murabaha contract, d) commissions charged on an implicit margin or spread for brokerage services, or under a mudaraba or wakala contract". Since Paragraph (5) of Article (29) of the Implementing Regulations of the Law of Value Added Tax is general and does not limit the supplies that are considered exempt financial services. Therefore, the Appellate Department accepts the appeal and annuls the primary decision.

Therefore, and after legal deliberation, the Department unanimously decided as follows:

Decision:

1. Accept the appeal in form.
2. Accept the appeal filed by ..., C.R. No. (...), regarding levying VAT on profits generated from installment sales, annul First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam Decision No. (VD-2021-1355), and annul Appellee's decision.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Appeal

Appellate Committee

First Appellate Department for Income Tax and
Excise Goods Violations and Disputes in Riyadh

Decision No. (VA-2022-537)
Delivered in Appeal No. (V-
85544-2021)

Key words:

Appeal – Value Added Tax – Refunding Amount – Invoice Issued by the Bank – Accepting Appeal and Annuling Primary Decision.

Abstract

Appellant requests annulling decision rendered by the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam in the Case related to refunding VAT amount filed by Appellant against Appellee. On Merits: It turned out that the primary decision dismissed the Case in form for being filed by a party without capacity. Since Appellant requests refunding VAT refund on the ground that the purchaser is from ... Company. Since Appellant provided an invoice issued by the bank showing VAT amount paid by the purchaser. Since the Department found that Appellant is the purchaser and Appellee seller. Accordingly, the requirement of legal capacity and interest between the parties is met. Therefore, the Appellate Department accepts the appeal and annuls the primary decision. Thereupon: The Department accepts the appeal and annuls the primary decision.

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Monday, 17/01/1444 AH corresponding to 15/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes, formed by Royal Order No. (65474) dated 23/12/1439 AH, in accordance with Paragraph (B) of Article (67) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended by Royal Decree No. (M/113) dated 02/11/1438 AH, convened at its headquarters in Riyadh, to consider the appeal filed on 08/12/2021 AD by ..., holder of National ID No. (...) in Appellant's own capacity, regarding First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam Decision No. (VD-2021-1520) in the Case filed by Appellant against Appellee.

Since facts of this case have been stated in the decision subject matter of appeal, Appellate Department refers to this decision for avoidance of repetition. Whereas decision of The Primary Department ruled the following: Dismiss the Case for being filed by a party without capacity.

Dissatisfied with this decision, the Appellant submitted a statement of appeal to the Appellate Department, objecting to the primary decision, subject matter of appeal, that dismissed the Case in form for being filed by a party without capacity on the ground that Appellant purchased from Appellee ... Company Banking for Investment. In addition, Appellant concluded the statement of appeal by requesting the Department to accept the appeal.

On Monday 17/01/1444 AH corresponding to 15/08/2022 AD, the First Appellate Department for Value Added and Excise Tax Violations and Disputes held e-hearing session to consider the appeal in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee



Procedures that stipulates: “Circuit sessions may be held using modern technological means provided by the General Secretariat”. Case file, all memorandums, documents, and primary decision, subject matter of appeal, were reviewed. After discussion and deliberation, the Department decided to adjourn the session for adjudication.

Grounds

Based on Income Tax Law, issued under Royal Decree No. (M/1) dated 15/01/1425 AH, as amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing Tax Dispute and Violation Committee Procedures, issued under Royal Order No. (26040) dated 21/04/1441 AH.

Whereas, appeal was submitted by a person of capacity during the specified regulatory period and fulfilled its regulatory requirements in accordance with the provisions of Article 40.2 of Tax Dispute and Violation Committee Procedures, which necessitates the acceptance of appeal in form.

On Merits: The Appellate Department, having taken cognizance of Case documents, and examined the memorandums and answers provided by both parties, found that the primary decision dismissed the Case in form for being filed by a party without capacity. Since Appellant requests refunding VAT refund on the ground that the purchaser is from ... Company. Since Appellant provided an invoice issued by the bank showing VAT amount paid by the purchaser. Since the Department found that Appellant is the purchaser and Appellee seller. Accordingly, the requirement of legal capacity and interest between the parties is met. Therefore, the Appellate Department accepts the appeal and annuls the primary decision.

Therefore, and after due deliberation, Department unanimously decided the following:

Decision:

First: In Form: Accept the appeal filed by ..., holder of National ID No. (...) in form for being filed within the statutory period.

Second: Accept the appeal filed by ..., holder of National ID No. (...) and overturn the Primary Department's Decision No. (1269-2021-VD) of the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam and remand the case to the primary department to reconsider it in terms of substantive part.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



Value-Added Tax

Primary Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1600)
Delivered in Case No. (V-86761-2021)

Key words:

Value Added Tax – Imposing Field Seizure Penalty – Plaintiff's Failure to Record His Address on the Issued Invoice – Canceling Fine Subject of the Case – Dispute Resolved.

Abstract

Plaintiff requests annulling ZATCA decision regarding the imposition of field seizure penalty. The Department found that the dispute involves: Imposing field seizure penalty due to Plaintiff's failure to record his address on the issued invoice. Since Defendant decided to cancel the fine, subject matter of the Case, in application of the initiative. Therefore, the Department establishes resolution of the dispute. Thereupon: The dispute is resolved. In addition, the decision is considered final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

Instruments:

- Article (15.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday, 24/07/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, established by Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, and formed by Royal Order No. (65474) dated 23/12/1439 AH, convened to consider the above-mentioned Case. Since the Case met the statutory requirements, it was lodged with the General Secretariat of Tax Committees on 16/01/2022 AD.

Facts of the case are summarized that, holder of National ID number (.....), in his capacity as the owner of (...) Enterprise, C.R. No. (...), submitted a statement of claim, objecting to Defendant's decision regarding field seizure penalty. Having presented Plaintiff's statement of claim to Defendant's attorney, he submitted a one-page answer that was reviewed by the Department.

On Sunday, 24/07/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its first e-hearing session pursuant to remote litigation procedures in accordance with provisions of (Second) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties, the Department found neither Plaintiff nor his attorney appeared. In addition, ..., (Saudi National, under National ID No. (...)) In his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated ../10/1443 AH issued by Vice Governor for Legal Affairs. Having asked



Defendant's representative about his answer, he maintained the answer included in Case filed. Since the Case is ripe for adjudication in accordance with Article (20) of Tax Dispute and Violation Committee Procedures. Therefore, the Department decided to adjourn the session for adjudication.

Grounds

Having taken cognizance of documents included in Case file, and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) and the relevant laws and regulations.

In Form: Since Plaintiff filed the Case moving for annulling Defendant's decision regarding the imposition of field seizure penalty. Since this dispute is a tax dispute, it falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form.

On Merits: Having examined the case papers and the submissions made by its parties after having ample time to make their pleadings and replies, the Department found that the dispute relates to: Imposing field seizure penalty due to Plaintiff's failure to record his address on the issued invoice. Since Defendant decided to cancel the fine, subject matter of the Case, in application of the initiative. Therefore, the Department establishes resolution of the dispute.

Based on the foregoing and according to the Common VAT Agreement, Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:

Decision:

- The dispute is resolved by Defendant's decision to cancel the fine in question in application of the initiative.

This decision was made in presence of both parties, in accordance with provisions of Article (56) of Law of Procedure Before Sharia Courts. The Department has set a period of (30) days for the receipt of a copy of the decision, and the Department may extend the delivery period for another (30) days as it deems appropriate. This decision shall be deemed final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period in accordance with Paragraph (3) of Article (33) of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1555)
Delivered in Case No. (V-83602-2021)

Key words:

Value Added Tax – Imposing Field Seizure Penalty – Canceling Fine Subject Matter of the Case – Dispute Resolved.

Abstract

Plaintiff requests annulling ZATCA decision regarding the imposition of a field seizure penalty. Defendant submitted a one-page answer. The Department found that Defendant decided to cancel the fine, subject matter of the Case. Therefore, the Department establishes resolution of the dispute. Thereupon: The dispute is resolved by Defendant's decision to cancel the fine in question. In addition, the decision is deemed final and enforceable.

Instruments:

- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday, 20/07/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, established by Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, and formed by Royal Order No. (65474) dated 23/12/1439 AH, convened to consider the above-mentioned Case. Since the Case met the statutory requirements, it was lodged with the General Secretariat of Tax Committees on 23/11/2021 AD.

The facts of this Case are summarized that ..., holder of National ID No. (...), in person, submitted a statement of claim, objecting to Defendant's decision regarding field seizure penalty.

Having presented Plaintiff's statement of claim to Defendant's attorney, he submitted a one-page answer that was reviewed by the Department.

On Wednesday, 20/07/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its first e-hearing session pursuant to remote litigation procedures in accordance with provisions of (Second) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties, the Department found that neither Plaintiff nor his attorney appeared. In addition, ..., (Saudi National, under National ID No. (...)) In his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .. /10/1443 AH issued by Vice Governor for Legal Affairs. Having asked Defendant's representative about his answer, he maintained the answer included in Case filed. Since the Case is ripe for adjudication in accordance with Article (20) of Tax Dispute and Violation



Committee Procedures. Therefore, the Department decided to adjourn the session for adjudication.

Grounds



Having taken cognizance of documents included in Case file, and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) and the relevant laws and regulations.

In Form: Since Plaintiff filed the Case moving for annulling Defendant's decision regarding the imposition of field seizure penalty. Since this dispute is a tax dispute, it falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form.

On Merits: Having taken cognizance of Case documents and granted parties thereto sufficient time to present all arguments and documents, the Department found that the dispute involves imposing field seizure penalty. Since Defendant decided to cancel the fine, subject matter of the Case. Therefore, the Department establishes resolution of the dispute.

Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Chamber, after unanimous deliberation, decided:

Decision:

- Establish resolution by Defendant's decision to cancel the fine, subject matter of the Case. This decision was made in presence of both parties, in accordance with provisions of Article (56) of Law of Procedure Before Sharia Courts.

The Department has set a period of (30) days for the receipt of a copy of the decision, and the Department may extend the delivery period for another (30) days as it deems appropriate. This decision shall be deemed final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures. Date of uploading decision to General Secretariat electronic system shall be deemed the date of decision delivery. May Allah's Blessings and Peace Be Upon Our Prophet Muhammad and Upon His Family and Companions.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period in accordance with Paragraph (3) of Article (33) of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1599)
Delivered in Case No. (V-86762-2021)

Key words:

Value-Added Tax – Field Violation fine – Plaintiff's Failure to Record Address – Fine Cancellation – Dispute Resolution Established

Abstract

The Plaintiff requests the cancellation of the decision issued by Zakat, Tax and Customs Authority regarding the imposition of a field violation fine. The Department found that the dispute centered on the imposition of a fine due to Plaintiff's failure to record his address on the issued invoice. The Defendant decided to cancel the fine in question as part of an applied initiative. The case is considered resolved. The decision is deemed final and enforceable.

Instruments:

- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday, 24/07/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, established under the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, and constituted pursuant to Royal Decree No. (65474) dated 23/12/1439 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of the Tax Committees on 16/12/2022.

Facts of the case are summarized that, holder of National ID number (.....), in his capacity as Owner of Establishment, C.R. No. (...). submitted a statement of claim, objecting to Defendant's decision regarding field seizure penalty. Having presented Plaintiff's statement of claim to Defendant's attorney, he submitted a one-page answer that was reviewed by the Department.

On Sunday, 24/07/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened a session remotely in accordance with the remote virtual litigation procedures pursuant to the Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. Having called the parties, the Department found that neither Plaintiff nor his attorney appeared. In addition, ..., (Saudi National, under National ID No. (...)) In his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated .../10/1443 AH, Issued by the Deputy Governor for Legal Affairs, and upon asking Defendant's representative for a response, he stated that he stands by the response memorandum submitted in case file and asserts case validity for adjudication according to Article (20) of the



Rules of Tax Dispute and Violation Committee Procedures. Consequently, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds



Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Decision No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of the States of the Gulf Cooperation Council (GCC), as well as the relevant laws and regulations.

In Form: Since Plaintiff filed the Case moving for annulling Defendant's decision regarding the imposition of field seizure penalty. Since this dispute is a tax dispute, it falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form.

On Merits: Having examined the case papers and the submissions made by its parties after having ample time to make their pleadings and replies, the Department found that the dispute relates to: Imposing field seizure penalty due to Plaintiff's failure to record his address on the issued invoice. Since Defendant decided to cancel the fine, subject matter of the Case, in application of the initiative. Therefore, the Department establishes resolution of the dispute.

Based on the foregoing and in accordance with provisions of the Common Agreement, the Value Added Tax Law and its Implementing Regulations, and the Rules of Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided:

Decision:

- The case is considered resolved based on the Defendant's decision to cancel the fine in question as part of the applied initiative.

This decision was made in presence of both parties, in accordance with provisions of Article (56) of Law of Procedure Before Sharia Courts. The Department has set a period of (30) days for the receipt of a copy of the decision, and the Department may extend the delivery period for another (30) days as it deems appropriate. This decision shall be deemed final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period in accordance with Paragraph (3) of Article (33) of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1492)
Delivered in Case No. (V-94237-2022)

Key words:

Value-Added Tax – Case Closure Due to Defendant's Payment of the Claimed Amount – Dispute Resolution Established

Abstract

The Plaintiff requested that the Defendant be ordered to pay a VAT amount of SAR 49,500. The Defendant responded that the dispute had been resolved through the payment of the claimed amount.

The Department confirmed that the dispute between the Plaintiff and the Defendant had ended, as the reason for filing the case no longer existed. The case is considered resolved based on Defendant's payment of the claimed amount. The decision is deemed final and enforceable.

Instruments:

- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday, 29/06/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (65472) dated 23/12/1439 AH convened to hear the above case. Given the case has fulfilled its prescribed legal requirements, it was filed with the General Secretariat on 03/02/2021 AD.

The facts of this case can be summarized as follows:

....., holder of National ID No. (...), in her own capacity, filed a case against Company], with Commercial Registration No. (...), requesting that the Defendant be obligated to pay Value-Added Tax in the amount of SAR 49,500.

On Wednesday, 29/06/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened a session remotely in accordance with the remote virtual litigation procedures pursuant to the Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. Upon calling the parties to the case, ... (Saudi National, under National ID No. (...)) appeared in his capacity as the legal representative of the Defendant under Power of Attorney No. (...).

After reviewing case file and asking the Plaintiff's representative about the claim, he responded that the dispute had been resolved through the payment of the claimed amount. As the case is ready for adjudication in accordance with Article (20) of the Tax Violations and Disputes



Committee Procedures, the Department decided to adjourn the session in preparation for issuing the decision.

Grounds



Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Decision No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) and the relevant laws and regulations.

In form, since Plaintiff's claim seeks to obligate the Defendant to pay Value-Added Tax, and considering that this type of dispute falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and as the case was filed by a party with legal standing and within the legally prescribed period, the Department concludes that the case is procedurally admissible.

On merits, upon examining the case documents and the responses of both parties, after granting them sufficient time to present their arguments and evidence, and after reviewing the submission made through the electronic system on 18/05/2022 by the Plaintiff, in which she acknowledged that the dispute for which the case was filed has been resolved, the Department finds that the dispute between the Plaintiff and the Defendant has ended due to the resolution of the cause of action. In light of the above, and in accordance with the provisions of the Common Agreement, the Value-Added Tax Law, its Implementing Regulations, and the Rules of Procedure for the Committees for the Resolution of Tax Violations and Disputes, the Department unanimously rules, after deliberation, as follows:

Decision:

- The case is considered closed based on Defendant's payment of the claimed amount.

This decision was issued in the presence of both litigants. The Department has set a period of (30) days for receipt of a copy of the judgment, and it may extend the delivery period for another (30) days as it deems appropriate. This decision shall be deemed final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period in accordance with Paragraph (3) of Article (33) of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1633)
Delivered in Case No. (V-81023-2021)

Key words:

Value-Added Tax – Field Violation fine – Statutory Period – Dispute Resolution

Abstract

The Plaintiff requested cancellation of the decision issued by Zakat, Tax and Customs Authority regarding the imposition of a field violation fine. Legal provisions indicate that if a case is filed by a party with standing and within the legally prescribed time frame, it must be accepted procedurally. The Department found that the Defendant had decided to cancel the fine in question as part of an initiative, and thus concludes that the dispute has been resolved. The case is accepted in form - The case is considered resolved based on Defendant's decision to cancel the fine under the initiative, and the decision is deemed final and enforceable.

Instruments:

- Article (15) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday, 27/07/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (65472) dated 23/12/1439 AH convened to hear the above case. Given the case has fulfilled its prescribed legal requirements, it was filed with the General Secretariat of Tax Committees on 07/11/2021 AD.

The facts of this case are summed up so as... holder of National ID No. (...), in her own capacity, submitted a statement of claim objecting to Defendant's decision regarding the imposition of a field violation fine. Upon presenting Plaintiff's statement of claim to Defendant's representative, he responded with a one-page written memorandum, which the Department has reviewed.

On Wednesday, 01/06/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened a session remotely in accordance with the remote virtual litigation procedures pursuant to the Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. At the start of the session, and in the presence of (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated 18/10/1443 AH, issued by the Deputy Governor for Legal Affairs, the Department reviewed the initiative issued today, 01/06/2022, regarding the cancellation of fines covered by the initiative. Pending the issuance of the procedural



regulations outlining the exemption policy, the Department decided to adjourn the session to 27/07/2022.

On Wednesday, 27/07/2022 AD, the Second Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its session remotely in accordance with the remote virtual litigation procedures; pursuant to the provisions of Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040), dated 21/04/1441 AH. When calling both litigants, Mr....., (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated .../10/1443 AH, issued by the Deputy Governor for Legal Affairs, and upon asking Defendant's representative for a response, he stated that he stands by the response memorandum submitted in case file and asserts case validity for adjudication according to Article (20) of Tax Disputes and Violations Committee Procedures. Consequently, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

After reviewing Case documents, and upon thorough examination, and in light of the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/6/1425 AH as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Disputes and Violations Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the Plaintiff's claim seeks to annul the Defendant's decision regarding the imposition of a field violation fine, given that this dispute falls within the jurisdiction of the Committee for Adjudication of Income Tax Violations and Disputes pursuant to Royal Decree No. (26040) dated 21/04/1441 AH, and since the Case was filed by an authorized party and within the prescribed statutory period, it is incumbent upon this Department to accept the Case in form.

On Merits: Upon reviewing the case documents and the responses of both parties, after granting them sufficient time to present their arguments, the Department found that the dispute centers on the imposition of a field violation fine. Since the Defendant decided to cancel the fine in question as part of the initiative, the Department concludes that the dispute has been resolved.

Based on the above Grounds, and based on the Common VAT Agreement, VAT Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:

Decision:

- The case is considered resolved based on Defendant's decision to cancel the fine in question under the initiative.

This decision was made in presence of both parties, in accordance with provisions of Article (56) of Law of Procedure Before Sharia Courts. The Department has set a period of thirty (30) days for receiving a copy of the decision, and it may extend the delivery date by an additional thirty (30) days if deemed necessary. This decision is considered final and enforceable in accordance with Article (42) of Tax Violations and Disputes Committee Procedures. The date the decision is made available on the electronic system of the General Secretariat shall be considered the official date of delivery.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period in accordance with Paragraph (3) of Article (33) of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2021-1498)
Delivered in Case No. (V-82928-2021)

Key words:

Value-Added Tax – Tax Reassessment – Termination of the Dispute Subject of the Case

Abstract

The Plaintiff requested cancellation of the decision issued by Zakat, Tax and Customs Authority regarding the reassessment of the period related to the fourth quarter of 2020. The Department confirmed that the Plaintiff requested to terminate the dispute subject of the case. Accordingly, the Department concludes that the dispute concerning the reassessment of the fourth quarter of 2020 has been resolved. The case is considered closed based on Plaintiff's request to terminate the dispute. The decision is deemed final and enforceable.

Instruments:

- Article (15/2) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 27/06/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (65472) dated 23/12/1439 AH convened to hear the above case. Given the case has fulfilled its prescribed legal requirements, it was filed with the General Secretariat of Tax Committees on 18/11/2021 AD.

The facts of this case can be summarized as follows:

....., holder of National ID No. (...), in his own capacity, submitted a statement of claim objecting to Defendant's decision to reassess the period related to the fourth quarter of 2020. Having presented Plaintiff's statement of claim to Defendant's attorney, he submitted a one-page answer that was reviewed by the Department.

On Monday, 27/06/2022 AD, First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its First session remotely in accordance with the remote virtual litigation procedures; pursuant to the provisions of Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) and dated 21/04/1441 AH. When calling both litigants, Mr....., (Saudi National), on behalf of himself, under National ID No. (...), and (Saudi National, under National ID No. (...)) In his capacity as ZATCA's Representative by Authorization Letter No. (...), dated 18/10/1443 AH issued by the Deputy Governor for Legal Affairs. Having asked the Plaintiff regarding his case, they responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming contents of the memorandum of reply. When asked if either party wished to add anything further,



both parties stated that they would rely on what has already been submitted. Accordingly, the Department decided to adjourn session for deliberation before issuing decision.

Grounds



Having taken cognizance of documents included in Case file, and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) and the relevant laws and regulations.

In form, Since Plaintiff's claim seeks to annul the Defendant's decision regarding the reassessment of the period related to the fourth quarter of 2020, and as this type of dispute falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a party with legal standing and within the legally prescribed timeframe, the Department determines that the case is admissible in form.

On Merits: Upon reviewing the case documents and the responses of both parties, after granting them sufficient time to present their arguments, the Department finds that the dispute centers on the reassessment of the period related to the fourth quarter of 2020. Since the Plaintiff requested to terminate the dispute subject of the case, the Department concludes that the dispute concerning the reassessment of the fourth quarter of 2020 has been resolved. Based on the above, and in accordance with the provisions of the Common Agreement, the Value-Added Tax Law, its Implementing Regulations, and the Rules of Procedure for the Committees for the Resolution of Tax Violations and Disputes, the Department unanimously rules after deliberation:

Decision:

- The case is considered closed based on Plaintiff's request to terminate the dispute. This decision was issued in the presence of both parties, and the Department set a period of thirty (30) days for the receipt of a copy of the decision. The Department may extend the deadline for additional thirty (30) days as it deems appropriate. This decision shall be deemed final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.3 of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1445)
Delivered in Case No. (V-69119-2021)

Key words:

Value-Added Tax – Tax Periods – Late Payment fines – Asset Seizure – Service Suspension via Notification Alerts

Abstract

The facts of this case are summarized as follows: Zakat, Tax and Customs Authority filed a case requesting that the Defendant be obligated to pay Value-Added Tax for the following tax periods: Q1, Q3, and Q4 of 2019; Q4 of 2020; and Q1 of 2021, along with the corresponding late payment fines. The Defendant was contacted multiple times over different periods and was notified of the need to make payment but failed to comply. Accordingly, the Plaintiff requested the seizure of Defendant's assets and to compel payment. The legal provisions indicate that if a case is filed by a party with legal standing and within the legally prescribed time frame, the case must be accepted procedurally. The Department found that: The Defendant failed to respond to the dispute despite being notified by the General Secretariat of the case filed by ZATCA requiring a response. The Defendant also failed to fulfill its tax obligations within the statutory period, despite being notified of the need to pay and being informed of service suspension through warning notices submitted in the case file. Furthermore, Defendant's lack of response to the General Secretariat constitutes negligence and a failure to fulfill its tax obligations toward the state. Conclusion: Acceptance of the case submitted by Plaintiff/ Zakat, Tax and Customs Authority, and obligating the Defendant /, TIN No. (....), to pay an amount of SAR 161,468.26. The decision is deemed final and enforceable.

Instruments:

- Article (14) of [the State Revenue Law, issued by Royal Decree No. \(M/68\) dated 18/11/1431 AH.](#)
- Articles (43) and (67/8) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Article (59) of [the Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Decision No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday, 26/06/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, formed pursuant to the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/1/1425 AH, constituted by Royal Order No. (65474) of 23/12/1439 AH, held its session to consider the aforementioned case. Since the Case fulfilled the established



regulatory requirements, it was lodged with General Secretariat of Tax Committees on 06/09/2022 AD.

The facts of this case are summarized as follows: Zakat, Tax and Customs Authority filed a statement of claim requesting that the Defendant, ..., with TIN (...), be obligated to pay Value-Added Tax for the tax periods (Q1, Q3, and Q4 of 2019, Q4 of 2020, and Q1 of 2021), along with the resulting late payment fines, for a total amount of SAR 161,468.26.

On Sunday, 26/06/2022, the first session was held via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to the Case, ... (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated/ ... issued by the Deputy Governor for Legal Affairs, and it was found that neither the Defendant nor a representative appeared. When Plaintiff's representative was asked about the claim, he responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees and affirmed its contents. For the validity of the case for adjudication is in accordance with the provisions of Article (20) of the Tax Dispute and Violation Committee Procedures. Accordingly, Department decided to adjourn the session in preparation for the issuance of the decision.

Grounds

After reviewing the Case documents, and upon thorough examination, and in light of the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/6/1425 AH as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form:

It is established from the case file that the Plaintiff submitted the claim through the electronic portal on 06/09/2021. Since the decision in question pertains to the years 2019, 2020, and 2021, the claim was therefore filed within the statutory time limit of five years, as stipulated in Paragraph (8) of Article (67) of the Income Tax Law, as amended by Royal Decree No. (M/113), which states: "Tax dispute cases may not be heard upon the lapse of five years from the maturity date of the amount subject of the claim, or the date of knowledge of the incident subject to the dispute, except in the presence of Grounds acceptable by the Committee", which means that the case must be accepted in form.

On Merits:

Since the Plaintiff, Zakat, Tax and Customs Authority, seeks through its claim to obligate the Defendant to pay Value-Added Tax for the tax periods (Q1, Q3, and Q4 of 2019, Q4 of 2020, and Q1 of 2021), along with the resulting late payment fines, in accordance with Article (59) of the Implementing Regulations of the Value-Added Tax Law and Article (43) of the Value-Added Tax Law, the Plaintiff asserts that it contacted the Defendant multiple times over different periods and notified them of the obligation to pay, but the Defendant failed to comply. Accordingly, the case was submitted to the Tax Committees as the competent authority to obligate the Defendant to pay the outstanding dues, as stipulated in Article (14) of the State Revenue Law issued by Royal Decree No. (M/68) dated 18/11/1431 AH, which states: "If the debtor does not pay the amount due within the period specified in Article 13, they shall be warned to pay within fifteen (15) working days. If this period lapses without payment, the relevant authority must take the necessary actions before the competent Department to seize the debtor's assets to the extent of the debt." Therefore, the Plaintiff requests the seizure of Defendant's assets and to obligate them to settle the outstanding dues. The Defendant did not submit a response to the dispute, despite being notified



by the General Secretariat of the claim filed against them by ZATCA, which required a response. It was further confirmed that the Defendant violated Article (59) of the Implementing Regulations of the Value-Added Tax Law, which states: “The taxable person must pay the due tax for the tax period no later than the last day of the month following the end of that tax period.” The Defendant failed to fulfill its tax obligations within the legal deadline despite being notified of the payment requirement and of service suspension via warning notices submitted in the case file. Defendant's failure to respond to the General Secretariat and failure to meet its tax obligations constitute negligence and a failure to fulfill its obligations toward the state's rights. For these reasons, and after deliberation in accordance with the law, the Department unanimously rules as follows:

Decision:

- Acceptance of the claim submitted by the Plaintiff/ Zakat, Tax and Customs Authority, and obligating the Defendant / ..., TIN (...), to pay the amount of SAR 161,468.26 (One hundred sixty-one thousand, four hundred sixty-eight riyals and twenty-six halalas), representing the total value of the tax claims subject of the case.

This decision was rendered in the presence of both parties in line with Article (21) of Tax Dispute and Violation Committee Procedures . The Department has established a 30-day period for obtaining a copy of the decision, with the possibility of extending this period by an additional (30) days if deemed necessary. The parties involved in the case have the right to appeal within 30 days from the day after the specified date of receipt. If no appeal is filed within this time frame, the decision becomes final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2021-1735)
Delivered in Case No. (V-55710-2021)

Key words:

Value-Added Tax – Late Payment fine – Tax Payment Notification – Statutory Deadline for Payment – Claim Rejected

Abstract

The Plaintiff requested the cancellation of the decision issued by Zakat, Tax and Customs Authority regarding the imposition of a late payment fine related to the fourth quarter of 2020. The Defendant (ZATCA) did not attach a written response to Plaintiff's objection. However, the Department confirmed that the Plaintiff had paid the tax on .../ .../ ..., which places the Plaintiff outside the scope of the exemption. Accordingly, the Department finds that ZATCA's action in imposing the late payment fine was valid. Conclusion: Plaintiff's claim is rejected due to the validity of Defendant's decision to impose the late payment fine in question. The decision is deemed final and enforceable.

Instruments:

- Article (63) of [Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Articles (27) and (43) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Article (1/59) of [the Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Decision No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 08/08/2022, The First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH as amended, and Royal Order No. 65474 of 23/12/1439 AH, convened to consider the case mentioned above. Since the Case fulfilled the established regulatory requirements, it was lodged with General Secretariat of Tax Committees on 21/06/2021 AD.

The facts of this Case are summarized as follows: Mr....., holding National ID No., in his capacity as Owner of the Establishment, with C.R. No. submitted a statement of claim objecting to Defendant's decision regarding the imposition of a late payment fine related to the fourth quarter of 2020. Upon presenting Plaintiff's statement of claim to Defendant's representative, he responded with a one-page written memorandum.

On Monday, 08/08/2022, the First Department for Adjudication of Value Added Tax Violations and Disputes in Jeddah convened its first hearing via remote communication, in accordance with virtual litigation procedures, based on Clause (2) of Article Fifteen of Tax Violations and Disputes



Committee Procedures, issued by Royal Decree No. (26040), dated 21/04/1441 AH to consider the case filed by the Plaintiff against the Defendant, and in reference to Clause (2) of the same article. Upon calling the parties to the case, the presence of the Plaintiff or their representative was not confirmed, while appeared. (Saudi National, under National ID No. (...)) In his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated / ... issued by Deputy Governor for Legal Affairs. And when asked about its response, the Defendant replied that it adheres to what was stated in the rejoinder submitted in the case file. For the validity of the case for adjudication is in accordance with the provisions of Article (20) of the Tax Dispute and Violation Committee Procedures. Accordingly, Department decided to adjourn the session in preparation for the issuance of the decision.

Grounds

After reviewing Case documents, and upon thorough examination, and in light of the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/6/1425 AH as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Disputes and Violations Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form:

Since the Plaintiff seeks through his claim to annul the decision issued by the Defendant regarding the imposition of a late payment fine related to the fourth quarter of 2020, and since this dispute falls within the jurisdiction of the Committee for Adjudication of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and as the claim was submitted by a party with legal standing and within the legally prescribed period, the Department deems it necessary to accept the case procedurally.

On Merits:

Upon reviewing case documents and the responses of both parties, after granting them sufficient time to present their arguments, the Department finds that the dispute centers on Plaintiff's objection to the late payment fine. Article (63) of the Common GCC Agreement for Value-Added Tax provides: "Each Member State shall determine the deadlines, conditions, and rules for the payment of net tax due by the taxable person." Paragraph (1) of Article (27) of the Value-Added Tax Law (Tax Payment) states: "The Regulations shall determine the time periods, terms and conditions for the payment of Net Tax due by a Taxable Person." Paragraph (1) of Article (59) of the Implementing Regulations of VAT Law, related to (tax payment), states: "Payment of Tax due by a Taxable Person in respect of a Tax Period must be made at the latest by the last day of the month following the end of that Tax Period"" Additionally, Article (43) of the VAT Law states: "Whoever does not pay the tax due within the period specified by the Regulations shall be fined an amount equaling (5%) of the value of unpaid tax, for each month or fraction of month for which the tax was not paid." After reviewing the above, and considering that the Plaintiff is requesting the cancellation of the late payment fine, which resulted from his delay in submitting the tax return for the fourth quarter of 2020, and that the due tax was paid on (16/07/2021) according to the payment notice attached by the Plaintiff, despite the Defendant (ZATCA) not attaching a written response to Plaintiff's objection, the statutory deadline for paying the due tax is no later than the last day of the month following the end of the tax period, which in this case was (31/01/2021 AD). Referring to Plaintiff's objection statement, he requested to benefit from the fine exemption initiative. However, the exemption initiative ended on (31/01/2021 AD), and the Plaintiff made the payment on (16/07/2021 AD). Therefore, the Plaintiff does not fall within the scope of the exemption. Accordingly, the Department finds Defendant's (ZATCA's) action in



imposing the late payment fine to be valid, based on Article (43) of the Value-Added Tax Law. Thus, the Department concludes that Plaintiff's claim should be rejected.

Accordingly, based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided to:

Decision:

- Rejection of Plaintiff's claim due to the validity of Defendant's decision to impose the late payment fine in question.

This decision was made in presence of both parties, in accordance with provisions of Article (56) of Law of Procedure Before Sharia Courts. The Department has set thirty (30) days for receiving a copy of the decision, and may extend such period for another thirty (30) days, as it deems appropriate. This decision shall be deemed final and enforceable in accordance with provisions of Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1463)
Delivered in Case No. (V-58404-2021)

Key words:

Value-Added Tax – Late Payment fine – fine for Filing Error – Statutory Period – Claim Rejected

Abstract

The Plaintiff requested the cancellation of the decision issued by Zakat, Tax and Customs Authority regarding the reassessment of the tax period related to the fourth quarter of 2020, and the imposition of two fines: a late payment fine and a fine for an error in filing the return. The Plaintiff claimed that the Defendant calculated the full amount of undeclared sales under the Q4 2020 return, whereas these sales actually pertain to both Q3 and Q4 of 2020. Accordingly, the Plaintiff requested that each quarter be assigned its respective sales. ZATCA responded that it had requested supporting documents proving that the date of receipt was prior to May 11, 2020, in order to apply the 5% VAT rate, considering Plaintiff's business activity is "aluminum kitchens." However, the Plaintiff failed to provide the supporting documents. As a result, the reassessment was carried out and the fines were imposed for the periods under objection. The legal provisions stipulate that a claim filed by a party with legal standing and within the statutory time limit must be accepted procedurally. The Department established that: There was no evidence of the Plaintiff having paid the original tax due, meaning the case is not eligible for the fine cancellation initiative offered by ZATCA. The Plaintiff claimed lack of tax knowledge, which is not considered a valid defense in the case, as the VAT Law and its Implementing Regulations clearly and unambiguously define the basis for tax liability. Accordingly, the Department concludes that Plaintiff's claim should be rejected. Regarding the fine for the error in filing the return:

Since the Department had already concluded in item One, related to the final assessment of the tax period for Q4 2020, that ZATCA's action was valid, and since matters related to that assessment follow its ruling, the Department also rejects Plaintiff's claim regarding the filing error fine. third: Imposition of the Late Payment fine: Given that the Department has concluded in item One, regarding the final assessment of the tax period for the fourth quarter of 2020, to uphold the action taken by the Defendant, and since matters related to it follow the same ruling, the Department also concludes that Plaintiff's claim regarding the imposition of the late payment fine should be rejected. Conclusion: Dismissal of Plaintiff's case, and considering the decision as final and enforceable.

Instruments:

- Article (42/1) of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- Article (34) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) on 14/12/1438 AH.](#)



Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 27/06/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, established pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and formed by Royal Order No. (65474) dated 23/12/1439 AH, held a session to consider the above case. Since the Case fulfilled the established regulatory requirements, it was lodged with General Secretariat of Tax Committees on 08/07/2021 AD. Facts of this Case are summed up that (...), holder of Residence Permit No. (...), in his capacity as representative of Plaintiff (... Company) Commercial Registration No. (...), pursuant to the Articles of Association, submitted a statement of claim objecting to Defendant's decision regarding the reassessment of the tax period related to the fourth quarter of 2020, and the imposition of two fines: a late payment fine and a fine for an error in filing the return. Upon presenting Plaintiff's statement of claim to Defendant's representative, a two-page written response was submitted, which the Department reviewed.

On Monday, 27/06/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened a session remotely in accordance with the remote virtual litigation procedures pursuant to the Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. Upon calling the parties to the case, ... appeared, a (Lebanese national) residing under Residency Permit No. (...) in his capacity as a legal representative under the attached Memorandum of Association, and (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated..../.../..., issued by Deputy Governor for Legal Affairs. When asked about his claim, the Plaintiff responded in accordance with the statement of claim submitted to the General Secretariat of Zakat, Tax, and Customs Committees and affirmed its contents. When Defendant's representative was asked for a response, he affirmed the contents of the written reply. When asking both litigants if they had any other statements, they responded that they are satisfied with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation in preparation for issuing a decision therein.

Grounds

After reviewing Case documents, and upon thorough examination, and in light of the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/6/1425 AH as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Disputes and Violations Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the Plaintiff seeks through this claim to annul Defendant's decision regarding the final assessment of the tax period related to the fourth quarter of 2020, and as this dispute falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and since the claim was filed by a party with legal standing and within the legally prescribed time limit, the Department deems the claim procedurally admissible.

On merits, after reviewing the complete case file and the defenses presented, the Department determined that the dispute centers on:

First: In Form: The reassessment of the Plaintiff for the tax period related to the fourth quarter of 2020. The Plaintiff claims that the Defendant included the entire amount of undeclared sales in the Q4 2020 tax return, whereas those sales pertain to both Q3 and Q4 of 2020. Accordingly, the



Plaintiff requests that each quarter be charged with its respective sales, noting that placing all sales under Q4 excluded her from benefiting from the fine exemption initiative, as the Q4 2020 return falls outside the initiative's coverage. The Defendant argued that supporting documents were requested to prove that the delivery date was before May 11, 2020, in order to apply the 5% VAT rate, considering that Plaintiff's activity is the sale of aluminum kitchens. However, the Plaintiff did not submit the required documentation. Therefore, the reassessment was conducted and fines were imposed for the periods under objection. The Department reviewed Plaintiff's request to reallocate the sales between Q3 and Q4 of 2020, with Q3 sales amounting to SAR 1,900,946.24 and Q4 sales to SAR 609,989.95. According to the initiative, the full tax amount had to be paid before the issuance of Ministerial Decision No. (2303) dated 07/06/1442 AH (21/01/2021). As a result, proof of payment of the original tax liability was requested through the Law. A bank guarantee receipt was submitted, dated 17/05/2021, in the amount of SAR 231,175.32, which does not match the amount of tax due. Therefore, the Department finds that there is no proof of payment of the original tax liability, meaning the case does not fall under ZATCA's fine exemption initiative. The Plaintiff also stated a lack of complete tax knowledge, expressing the following: "We kindly request your approval to accept our objection and amend the final assessment notice subject of our objection, and to allocate the reported sales in Q3 and Q4 of 2020 to their respective returns so that we can benefit from the initiative, since we were not fully aware that even if full payment and invoicing were completed, the product must be delivered before 01/07/2021 in order to qualify for the 5% rate." However, the Department finds that claiming a lack of tax knowledge is not a valid defense, as the VAT Law and its Implementing Regulations clearly and unambiguously define the basis for tax liability. Accordingly, the Department concludes that Plaintiff's claim should be rejected.

Second: Imposition of the fine for Return Filing Error: Since the Department concluded in item One, regarding the final assessment of the tax period for the fourth quarter of 2020, to uphold the action taken by the Defendant, and as all related matters follow the same ruling, and based on Paragraph (1) of Article (42) of the Value-Added Tax Law, which states: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due". Accordingly, the Department concludes to reject Plaintiff's claim regarding the imposition of the fine for the filing error.

Third: Imposition of the Late Payment fine: Since the Department concluded in item One, regarding the final assessment of the tax period for the fourth quarter of 2020, to uphold the action taken by the Defendant, and as all related matters follow the same ruling, and based on Article (43) of the Value-Added Tax Law, which states: "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid"

Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Department, after unanimous deliberation, decided:

Decision:

First: In Form: Rejection of Plaintiff's claim regarding the item of taxable local sales at the standard rate for the tax period in question, due to the validity of Defendant's decision.

Second: Rejection of Plaintiff's claim regarding the objection to the fine for filing error for the tax period in question, due to the validity of Defendant's decision.

Third: Rejection of Plaintiff's claim regarding the objection to the late payment fine for the tax period in question, due to the validity of Defendant's decision.



This decision was issued in the presence of both litigants, and the Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following the specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1552)
Delivered in Case No. (V-113647-2021)

Key words:

Value-Added Tax – Late Registration fine – Mandatory Registration Threshold – Exceeding Point-of-Sale Supplies – Claim Rejected

Abstract

The Plaintiff requested the cancellation of the decision issued by Zakat, Tax and Customs Authority regarding the imposition of a late registration fine, claiming that she did not reach the mandatory registration threshold.

The Defendant submitted evidence based on data from the Saudi Central Bank, which clearly proves that Plaintiff's point-of-sale supplies exceeded the mandatory registration threshold beyond any doubt. The legal provisions state that if a case is filed by a party with legal standing and within the legally prescribed time frame, it must be accepted procedurally. The Department confirmed the validity of Defendant's decision to impose the late registration fine in question. Conclusion: The case is accepted in form, and Plaintiff's claim is rejected due to the confirmed validity of Defendant's decision to impose the late registration fine. The decision is deemed final and enforceable.

Instruments:

- Article (15) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday, 20/07/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, established under the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, and constituted pursuant to Royal Decree No. (65474) dated 23/12/1439 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of the Tax Committees on 06/04/2022.

The facts of this case are summed up so as... holder of National ID No, in his capacity as authorized representative of the Plaintiff under Power of Attorney No. (...), he submitted a statement of claim objecting to Defendant's decision to impose a late registration fine. Upon presenting Plaintiff's statement of claim to Defendant's representative, a one-page written response was submitted, which the Department reviewed.

On Wednesday, 20/07/2022 AD, First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its session remotely in accordance with the remote virtual litigation procedures; pursuant to the provisions of Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) and dated 21/04/1441 AH. When calling both



litigants, ..., ... (Saudi national) with National ID No. (...), and (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .../10/1443 AH, and issued by the Deputy Governor for Legal Affairs. At the beginning of the session, the Department reviewed the matter for which additional time was previously granted and found that the Taxpayer had exceeded the registration threshold. Upon asking both parties if they wished to add anything further, they confirmed their reliance on the documents previously submitted. Accordingly, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

After reviewing Case documents, and upon thorough examination, and in light of the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/6/1425 AH as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Disputes and Violations Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the Plaintiff aims, through this claim, to annul Defendant's decision regarding the imposition of a late registration fine, and given that this dispute falls within the jurisdiction of the Committee for Adjudication of Income Tax Violations and Disputes, in accordance with Royal Decree No. (26040), dated 21/04/1441 AH, and as the claim was filed by a party with legal standing and within the statutory timeframe, the Department finds it necessary to accept the claim in form.

On Merits: Upon reviewing case documents and the responses of both parties, after granting them sufficient time to present their arguments, the Department found that the dispute centers on Plaintiff's objection to the validity of Defendant's decision to impose a late registration fine under the Value-Added Tax Law, based on the claim that the Plaintiff did not reach the mandatory registration threshold. However, the Defendant submitted evidence based on data from the Saudi Central Bank, which clearly proves, beyond any doubt, that Plaintiff's point-of-sale supplies exceeded the mandatory registration threshold. Therefore, the Department concludes that Defendant's decision to impose the late registration fine in question is valid.

Based on the foregoing and in accordance with provisions of the Common Agreement, the Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided:

Decision:

- Plaintiff's claim is rejected due to the confirmed validity of Defendant's decision to impose the late registration fine in question.

This decision was issued in the presence of both parties. The Department has set a period of thirty (30) days for receiving a copy of the decision, and it may extend the delivery date by an additional thirty (30) days if deemed necessary. The parties have the right to appeal the decision within thirty (30) days from the day following the designated date of delivery. If no appeal is submitted within this period, the decision becomes final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1765)
Delivered in Case No. (V-84755-2021)

Key words:

Value-Added Tax – Field Violation fine – Violation of Law Provisions – Statutory Period – Claim Rejected

Abstract

The Plaintiff requested the cancellation of the decision issued by Zakat, Tax and Customs Authority regarding the imposition of a field violation fine, due to Plaintiff's failure to display the VAT registration certificate at the place of business. The Plaintiff claimed he was unable to print the certificate due to a malfunction on ZATCA's website and stated that he had previously visited ZATCA to correct the issue. ZATCA submitted photos of the shop, none of which showed the VAT registration certificate displayed publicly. The Department confirmed that the Plaintiff did not provide evidence of a malfunction on ZATCA's website that would have prevented him from printing the VAT registration certificate. Therefore, it was established that the Plaintiff violated the provisions of Article (8/8) of the Implementing Regulations of the Value-Added Tax Law. Based on the evidence provided by the Defendant, including photos of the shop and the confirmed violation by the Plaintiff, the Department supports the action taken by ZATCA. Conclusion: The claim is accepted in form, and Plaintiff's claim is rejected due to the confirmed validity of Defendant's decision to impose the field violation fine in question. The decision is considered final and enforceable.

Instruments:

- Article (45/3) of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- Article (8/8) of [the Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Decision No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 22/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (65472) dated 23/12/1439 AH convened to hear the above case. Given the case has fulfilled its prescribed legal requirements, it was filed with the General Secretariat of Tax Committees on 02/12/2021 AD.

The facts of this case are as follows: Mr. ..., National ID No., in his capacity as owner of ... Contracting Establishment, Commercial Registration No. (...), submitted a statement of claim objecting to Defendant's decision to impose a field violation fine. Upon presenting Plaintiff's



statement of claim to Defendant's representative, a one-page written response was submitted, which the Department reviewed.

On Monday, 22/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its First session via video conference at 05:30 PM, in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the case, neither the Plaintiff nor a representative appeared..... (a Saudi national), holder of National ID No. (...), appeared in his capacity as a representative of Zakat, Tax and Customs Authority under Authorization Letter No. (...) dated .../10/1443 AH, issued by the Deputy Governor for Legal Affairs. When asked about his response, Defendant's representative stated that he adheres to the contents of the reply memorandum submitted in the case file. For the validity of the case for adjudication is in accordance with the provisions of Article (20) of the Tax Dispute and Violation Committee Procedures. Accordingly, Department decided to adjourn the session in preparation for the issuance of the decision.

Grounds

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Decision No. (1535) dated 11/02/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Decision No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) and the relevant laws and regulations.

In Form: Since the Plaintiff seeks through his claim to annul Defendant's decision regarding the imposition of a field violation fine, and as this dispute falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and since the claim was submitted by a party with legal standing and within the legally prescribed time limit, the Department deems the claim procedurally admissible.

On Merits: After reviewing the full case file and the arguments presented, the Department determined that the dispute centers on Defendant's imposition of a fine for violating the provisions of the law or regulations in the amount of SAR 10,000, due to Plaintiff's failure to display the VAT registration certificate at the place of business. The Plaintiff argued that he was unable to print it due to a malfunction on ZATCA's website and stated that he had previously contacted ZATCA to resolve the issue. Upon reviewing the field inspection report submitted by the Defendant, dated 26/10/2021, and signed by Taxpayer's representative (...), the stated violation was: "Failure to display the VAT certificate." ZATCA also submitted photographs of the store, none of which showed the VAT registration certificate displayed to the public. Since the Plaintiff did not present any evidence proving a malfunction in ZATCA's website that would have prevented him from printing the certificate, the Department found him in violation of Article (8/8) of the Implementing Regulations of the VAT Law, which states: "A taxable resident person registered with the Authority is required to display the registration certificate at their main place of business and branches, ensuring it is visible to the public." Based on the photos submitted by the Defendant and the established violation, the Department supports Defendant's action, in accordance with Paragraph (3) of Article (45) of the Value-Added Tax Law, which states: "A fine not exceeding fifty thousand (50,000) SAR shall be imposed on anyone who: 3. violates any other provision of the Law or the Regulations". Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Department, after unanimous deliberation, decided:



Decision:

- Plaintiff's case is dismissed due to validity of Defendant's decision to impose the field inspection fine subject of the dispute.

This decision was made in presence of both parties, in accordance with provisions of Article (56) of Law of Procedure Before Sharia Courts.

The Department has set thirty (30) days for receiving a copy of the decision, and may extend such period for another thirty (30) days, as it deems appropriate. This decision shall be deemed final and enforceable in accordance with provisions of Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1777)
Delivered in Case No. (V-71460-2021)

Key words:

Value-Added Tax – Revenue from Real Estate Rentals Subject to Standard VAT Rate – Municipal Fees – Statutory Period – Claim Rejected

Abstract

The Plaintiff requested the cancellation of the decision issued by Zakat, Tax and Customs Authority regarding the reassessment of the tax period for July 2018. The dispute pertains to subjecting the revenue generated from property rentals to the standard VAT rate, which the Plaintiff had previously declared as exempt sales. The Department confirmed that the properties in question were subject to municipal fees imposed by the Plaintiff at a rate of 5%, which applies to hotel accommodations, furnished apartments, and tourist resorts according to the Municipal Service Fees Regulations, as stated in ZATCA's reply memorandum. The Plaintiff did not deny this but indicated that the fee was imposed due to a lack of knowledge and was later removed from the contracts. Accordingly, and based on the above, the Department finds that ZATCA's action to apply the standard VAT rate on the supplies resulting from the rental of the disputed properties was valid. Conclusion: The claim is accepted in form, Plaintiff's claim is rejected in all aspects of the case, and the decision is deemed final and enforceable.

Instruments:

- Article (30/1, 2, 3) of [the Implementing Regulations of the Law of Value Added Tax issued by ZATCA Board of Directors Resolution No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday, 21/08/2022, the First Department to adjudicate VAT violations and disputes in Jeddah convened. This Department was established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, formed pursuant to Royal Order No. (65474) dated 23/12/1439 AH, to consider the case referenced above. As the claim fulfilled the legal procedural requirements, it was filed with the General Secretariat of Tax Committees on 19/09/2021.

The facts of this case are summarized as follows:, holder of National ID No. (...), in his capacity as the authorized representative of Trading Company Commercial Registration No. (...), under Power of Attorney No. (...), submitted a statement of claim objecting to Defendant's decision regarding the reassessment of the tax period related to July 2018.

On Sunday, 21/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened its first session remotely in accordance with the remote virtual litigation procedures pursuant to the Article 15.2 of the Tax Dispute and Violation Committee



Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. When parties to the case were called, no representative of the Plaintiff was present, while... (Saudi), holding National ID No. (...) in his capacity as ZATCA's Representative by Authorization Letter No. (...), Dated .../10/1443 AH, issued by the Deputy Governor for Legal Affairs, and upon asking Defendant's representative for a response, he stated that he stands by the response memorandum submitted in case file and asserts case validity for adjudication according to Article (20) of Tax Dispute and Violation Committee Procedures. Consequently, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

Having taken cognizance of documents included in Case file, and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) and the relevant laws and regulations.

In Form: Since the plaintiff seeks through his claim to annul the defendant's decision regarding the final assessment of the tax period related to July 2018, and as this dispute falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441AH, and as the case was submitted by a party with legal standing and within the legally prescribed timeframe, the panel deems the case procedurally admissible.

On Merits: After reviewing the full case file and the defenses presented, the Department finds that the dispute centers on the subjecting of revenues from real estate rentals to the standard VAT rate, which the Plaintiff had declared as exempt sales. Paragraph (1) of Article (30) of the Implementing Regulations of the VAT Law states: "Subject to any other provisions of this Regulation, the following supplies shall be exempt from VAT: (a) The supply of real estate, whether residential, commercial, agricultural, or developed/undeveloped land, when transferred or disposed of as the owner. (b) The lease or license of residential real estate." Paragraph (2) of the same article further clarifies: "For the purposes of this Article, 'residential real estate' means a building or part of a building that is intended for human habitation on a permanent basis. This includes: (a) Immovable real estate used or intended to be used as a dwelling such as houses, apartments, and residential units. (b) Other real estate intended to be used as a primary residence by a person, including student or school dormitories." However, Paragraph (3) of the same article states: "Notwithstanding Paragraphs (1) and (2), the following are not considered residential real estate for the purpose of this Article: any hotel, inn, guest house, rest house, serviced accommodation, or other similar buildings designed to provide temporary lodging for visitors or travelers." According to the commercial registration, Plaintiff's business activity is limited to the following: "Hotels, management and leasing of owned or leased real estate (residential), management and leasing of owned or leased real estate (non-residential)." Based on the Common VAT Agreement, the Saudi VAT Law, and its Implementing Regulations, all supplies of goods and services by a VAT-registered person are subject to VAT at the standard rate unless specifically exempted. Exemptions for residential real estate leasing or licensing are clearly outlined in Paragraph (1) of Article (30), while exceptions to those exemptions, such as hotels and similar establishments, are detailed in Paragraph (3) of the same article. Additionally, reference is made to Decision No. (2021-71503-V), which upheld Defendant's action in a similar case, ruling that the definition of exempt residential real estate under Paragraph (2) of Article (30) does not apply. Furthermore, the properties in question are subject to municipal fees at a rate of 5%, which applies



to the occupancy of hotels, furnished apartments, and tourist resorts as per the Municipal Service Fee Regulations. This was stated in ZATCA's reply memorandum, which the Plaintiff did not deny, admitting instead that the fee was applied out of ignorance and was later removed from contracts. Accordingly, and based on all the above, the Department concludes that Defendant's action to impose the standard VAT rate on the rental supplies of the disputed properties is valid, as they do not qualify as exempt residential properties under Paragraph (3) of Article (30) of the Implementing Regulations of the VAT Law.

Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Chamber, after unanimous deliberation, decided:

Decision:

- Plaintiff's case is dismissed with regard to the objection to the final assessment notice issued by the Defendant for the tax period subject of the dispute.

This decision was made in presence of both parties, in accordance with provisions of Article (56) of Law of Procedure Before Sharia Courts.

The Department has set thirty (30) days for receiving a copy of the decision, and may extend such period for another thirty (30) days, as it deems appropriate. This decision shall be deemed final and enforceable in accordance with provisions of Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1741)
Delivered in Case No. (V-85444-2021)

Key words:

Value-Added Tax – Late Registration fine – Tax Number Linked to TIN – Statutory Period

Abstract

The Plaintiff requested the cancellation of the decision issued by Zakat, Tax and Customs Authority regarding the imposition of a late registration fine by the Defendant. The Plaintiff sought to cancel the tax number linked to the Tax Identification Number (TIN). Upon reviewing Plaintiff's data with the Saudi Bank, the Department confirmed that a violation had occurred. Accordingly, the Department concludes that Defendant's action to impose the late registration fine and to establish the TIN in question is valid. Conclusion: Plaintiff's claim is rejected due to the confirmed validity of Defendant's decision to impose the late registration fine subject of the case, and the decision is considered final and enforceable.

Instruments:

- Article (2/50) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Article (41) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Article (1/3) of [the Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Decision No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday, 09/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, established under the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, and constituted pursuant to Royal Decree No. (65474) dated 23/12/1439 AH convened to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of the Tax Committees on 12/08/2022.

The facts of this case are summed up so as... National ID No..... in his capacity as the owner of Shop for Fish Trading, under Commercial Registration No. (...), submitted a statement of claim objecting to the decision issued by the Defendant regarding the imposition of a late registration fine. Upon presenting Plaintiff's statement of claim to Defendant's representative, a two-page written response was submitted along with a copy of Taxpayer's data from Saudi Bank which the Department reviewed.

On Tuesday, 09/08/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its First session remotely in accordance with the remote virtual



litigation procedures; pursuant to the provisions of Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) and dated 21/04/1441 AH. When calling both litigants, the Plaintiff, Saudi National, appeared on behalf of himself, under National ID No. (...), and Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative by Authorization Letter No. (....), dated .../10/1443 AH, issued by Deputy Governor for Legal Affairs. When asking Plaintiff about his claim, he responded in accordance with his statements mentioned in the statement of claim submitted to the General Secretariat of Zakat, Tax, and Customs Committees and affirmed all statements mentioned therein. When asking Defendant attorney about his Reply, he affirmed all statements mentioned therein. When asking both litigants if they had any other statements to add, they decided that they were satisfied with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

After reviewing Case documents, and upon thorough examination, and in light of the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/6/1425 AH as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Disputes and Violations Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the plaintiff seeks through his claim to annul the defendant's decision regarding the imposition of a field violation penalty, and as this dispute falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and since the claim was filed by a party with legal standing and within the legally prescribed period, the panel concludes that the claim is procedurally admissible.

On Merits: Upon reviewing case documents and the responses of both parties, after granting them sufficient time to present and submit their arguments, the Department found that the dispute centers on Plaintiff's objection to Defendant's decision to impose a late registration fine. The Plaintiff requested the cancellation of the tax number associated with his TIN. Paragraph (2) of Article (50) of the Common VAT Agreement for the GCC States stipulates that: "The mandatory registration threshold shall be SAR 375,000." Additionally, Paragraph (1) of Article (3) of the Implementing Regulations of the VAT Law states: "For registration purposes, every Resident Person in the Kingdom who is not registered by GAZT must at the end of each month calculate the value of his Supplies made in the Kingdom within the twelve months then ended, in accordance with the requirements set out in the Agreement. In cases where this value exceeds the Mandatory Registration Threshold detailed in the Agreement, the Person must apply to GAZT to register within thirty (30) days of the end of that month pursuant to Article eight of these Regulations". Moreover, Article (41) of the VAT Law provides: "Any Person who has not applied for registration within the period specified in the Regulations shall be fined ten thousand (10,000) SAR". Upon reviewing Plaintiff's data with Saudi Bank, the Department confirmed that the Plaintiff had committed a violation. Accordingly, the Department concludes that Defendant's action in imposing the late registration fine and issuing the TIN in question was valid.

Based on the foregoing and according to the Common VAT Agreement, Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:

Decision:



- Plaintiff's claim is rejected due to the confirmed validity of Defendant's decision to impose the late registration fine in question.

This decision was made in presence of both parties, in accordance with provisions of Article (56) of Law of Procedure Before Sharia Courts. The Department has set thirty (30) days for receiving a copy of the decision, and may extend such period for another thirty (30) days, as it deems appropriate. This decision shall be deemed final and enforceable in accordance with provisions of Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-718)
Delivered in Case No. (V-82199-2021)

Key words:

Value-Added Tax – Field Violation fine – Violation of Law Provisions – Statutory Period – Claim Rejected

Abstract

The Plaintiff requested the cancellation of the decision issued by Zakat, Tax and Customs Authority regarding the field violation fine, due to Plaintiff's failure to display the VAT registration certificate at the place of business. The legal provisions indicate that if a case is filed by a party with legal standing and within the legally prescribed time frame, the case must be accepted procedurally. The Department confirmed that the dispute revolves around the imposition of a fine for violating the provisions of the law or its regulations. The Defendant (ZATCA) submitted several photographs of the shop showing that the Plaintiff had not displayed the certificate in a location clearly visible to the public. As for Plaintiff's claim that the certificate was placed at that moment and a commitment was made to the officer to comply going forward, such a defense is not considered valid. Accordingly, the Department finds the imposition of the fine to be valid. Conclusion: The claim is accepted, Plaintiff's claim is rejected due to the confirmed validity of Defendant's decision to impose the field violation fine in question and the decision is considered final and enforceable.

Instruments:

- Article (45/3) of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- Article (8/8) of [the Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Decision No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 08/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, established under the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, and constituted pursuant to Royal Decree No. (65474) dated 23/12/1439 AH Convened to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Tax Committees on 15/11/2022.

The facts of this Case are summarized as follows: Mr..... National ID No..... in his personal capacity, submitted a statement of claim objecting to Defendant's decision to impose a field



inspection fine. Upon presenting Plaintiff's statement of claim to Defendant's representative, a one-page written response was submitted, which the Department has reviewed.

On Monday, 08/08/2021, The First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its first session via video conferencing in accordance with remote litigation procedures, based on Clause (2) of Article (15) of Tax Dispute and Violation Committee Procedures, issued by Royal Decree No. (26040) dated 21/04/1441 AH. Upon calling the parties to the case, neither the Plaintiff nor his representative appeared. However, Mr. (...) (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated ... /.../ ... issued by the Deputy Governor for Legal Affairs, and upon asking Defendant's representative for a response, he stated that he stands by the response memorandum submitted in case file and asserts case validity for adjudication according to Article (20) of Tax Dispute and Violation Committee Procedures. Consequently, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds



After reviewing Case documents, and upon thorough examination, and in light of the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/6/1425 AH as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Disputes and Violations Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form:

Whereas the Plaintiff aims through his claim to annul Defendant's decision regarding the imposition of a field inspection fine, and since this dispute falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes pursuant to Royal Order No. (26040), dated 21/04/1441 AH, and since the claim was filed by a person with legal standing and within the legally prescribed period, the Department finds that the claim is formally admissible.

On Merits:

Upon reviewing the case documents and the responses of both parties, after granting them sufficient time to present their arguments and evidence, the Department concluded that the dispute centers around the imposition of a fine amounting to SAR 10,000 for violating the provisions of the VAT Law or its Implementing Regulations. This was due to the Plaintiff's failure to display the VAT registration certificate at the premises. Paragraph (8) of Article (8) of the Implementing Regulations of VAT Law states: "A taxable resident person registered with the Authority is required to display the registration certificate at their main place of business and branches, ensuring it is visible to the public." Furthermore, Paragraph (3) of Article (45) of VAT Law stipulates: "A fine not exceeding fifty thousand (50,000) SAR shall be imposed on anyone who: 3. violates any other provision of the Law or the Regulations". Upon reviewing the full case file and the presented defenses, and upon examining the field inspection report submitted by the Defendant (ZATCA) dated 03/08/2021, and signed by Taxpayer's representative (...), the violation was stated as: "Failure to display the VAT certificate." The Defendant (ZATCA) also submitted several photographs of the premises showing that the certificate was not displayed in a manner visible to the public. As for Plaintiff's claim that he displayed the certificate at that moment and pledged to comply going forward, this is not considered a valid defense. It constitutes a violation of Article (8/8) of the Implementing Regulations of the VAT Law. Accordingly, the Department finds the fine to be lawfully imposed based on Paragraph (3) of Article (45) of the VAT Law, and thus concludes to dismiss Plaintiff's claim. Based on the above Grounds, and based on the Common VAT Agreement, VAT Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:



Decision:

- Plaintiff's claim is rejected, as Defendant's decision to impose the field inspection fine in question is found to be valid.

This decision was made in presence of both parties, in accordance with provisions of Article (56) of Law of Procedure Before Sharia Courts.

The Department has set thirty (30) days for receiving a copy of the decision, and may extend such period for another thirty (30) days, as it deems appropriate. This decision shall be deemed final and enforceable in accordance with provisions of Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1465)
Delivered in Case No. (V-67920-2021)

Key words:

Value Added Tax – Filing Error fine – Late Payment fine – Domestic Sales Subject to the Standard Rate – Statutory Timeframe – Objection Rejected.

Abstract

The Plaintiff seeks the annulment of the decision issued by Zakat, Tax and Customs Authority regarding the final assessment for the tax period related to the first quarter of 2018, and the imposition of a fine for a filing error. ZATCA responded as follows: Regarding First Item: Local sales subject to tax at the basic rate: Domestic Sales Subject to the Standard Rate:

The dispute concerns the final assessment notice for the tax period of Q1 2018, as the Defendant amended the amount of domestic sales subject to the standard VAT rate. Accordingly, The statutory provisions indicate that if a claim is filed by a person with legal standing and within the prescribed timeframe, the claim must be accepted in form. Upon reviewing the details of the disputed item, namely the reassessment conducted by the Defendant for Q1 2018, it was found that the Defendant exercised its right to reassess the declaration for that period. The Plaintiff submitted documentation of title deeds transferred to buyers and confirmed that there were no other transfers in 2018. He also acknowledged this in his statement of claim and in his objection submitted to the Defendant (ZATCA). This confirms that the reassessment by the Defendant for the disputed period is valid, as the supply occurred during Q1 2018. As for Plaintiff's argument that he declared those supplies and submitted tax payment receipts for the same VAT amounting to SAR 150,000 during Q4 2018, based on instructions from an employee of ZATCA, and that the tax should not be paid twice, Since the Defendant's procedure was found to be correct, the Department concludes to dismiss Plaintiff's claim. Second: Imposition of the fine for Return Filing Error: Third: Imposition of the Late Payment fine: Since the Department concluded in Item One, regarding the final assessment for the tax period of the first quarter of 2018, to uphold the procedure undertaken by the Defendant, and since any related matter follows the same legal ruling, the Department therefore finds that Plaintiff's claim regarding the imposition of the filing error fine and the late payment fine should be rejected. Conclusion: The claim is accepted in form, but Plaintiff's objections to all items under dispute are dismissed. The decision is considered final and enforceable.

Instruments:

- Articles (26/1), (42/1), and (50) of [the Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (14), (63/2), (64/1), and (69/B/1) of [the Implementing Regulations of the Value Added Tax Law issued by decision of ZATCA's Board of Directors No. \(3839\) on 14/12/1438 AH.](#)



Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 27/06/2022AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, established pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/02/1425 AH as amended, and formed by Royal Order No. (65474) dated 23/12/1439 AH, held a session to hear the above case. Since the Case fulfilled the established regulatory requirements, it was lodged with General Secretariat of Tax Committees on 30/08/2021 AD.

The facts of this Case are summarized as follows: Mr..... National ID No. (...), in his personal capacity, submitted a statement of claim objecting to Defendant's decision regarding the final assessment for the tax period related to the first quarter of 2018. Upon presenting Plaintiff's statement of claim to Defendant's representative, a two-page written response was submitted. The Plaintiff also submitted a one-page reply memorandum, all of which have been reviewed by the Department.

On Monday, 27/06/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened a session remotely in accordance with the remote virtual litigation procedures pursuant to the Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. Upon calling the parties to the case, the Plaintiff, Mr. (...) (a Saudi national), appeared in person, holding National ID No. (...). Also present was Mr. (...) (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (...), Dated/... issued by Deputy Governor for Legal Affairs. When asked about his claim, the Plaintiff responded in accordance with the statement of claim submitted to the General Secretariat of Zakat, Tax, and Customs Committees and affirmed its contents. Having asked Defendant's attorney about his answer, Defendant's attorney insisted on his statements included in the answer. Having asked both parties to the Case if they desire to add any memorandums, they satisfied with what they previously submitted. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

After reviewing Case documents, and upon thorough examination, and in light of the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/6/1425 AH as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Disputes and Violations Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Whereas the Plaintiff seeks through his claim to annul Defendant's decision regarding the final assessment for the tax period related to the first quarter of 2018, and since this dispute falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and as the claim was filed by a party with legal standing and within the legally prescribed period, the Department finds that the claim is formally admissible.

On Merits: After reviewing the full case file and the defenses contained therein, the Department finds that the dispute centers on:

First: In Form: Local sales subject to tax at the basic rate: The dispute centers on the final assessment notice for the tax period related to the first quarter of 2018, resulting from Defendant's adjustment of the amount of domestic sales subject to the standard VAT rate to a total of SAR 3,000,000. Whereas Article (26) of Value Added Tax Law stipulates: "The Authority may conduct



a tax assessment for the taxable person regardless of the tax return submitted by them". Article (50) also stipulates that: "Subject to the provisions of Article (28) of the Law, the Authority shall be responsible for the administration, audit, assessment, and collection of the tax, and may take any measures it deems necessary for that purpose." Furthermore, Article (14) of the Implementing Regulations of the Value Added Tax Law provides: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom." Paragraph (2) of Article (63) of the Implementing Regulations states: "If a taxable person becomes aware of an error or inaccuracy in his tax return that results in an increase in the amount of tax due previously reported to ZATCA, he may correct this error at any time in any subsequent tax return following the discovery of the error, subject to the provisions of Paragraph (4) of this Article." Paragraph (1) of Article (64) states: "The Authority may issue an assessment of a taxable person's VAT obligations for one or more tax periods, and it must notify the person of that assessment upon issuance." Additionally, Paragraph (1)(b) of Article (69) states: "A taxable person may claim a refund of overpaid tax, in accordance with the terms and conditions set forth in this Article, in any of the following cases: (b) When the taxable person has paid an amount in excess of the tax due." Paragraph (2) of the same article further states: "The taxable person may submit a request to the Authority to refund any amounts paid in excess of what is due in the cases mentioned in Paragraph (1) of this Article, either at the time of submitting the return or at any time within five (5) years from the end of the calendar year in which any of those cases occurred." Upon reviewing the relevant Agreement, Law, and Implementing Regulations mentioned above, and considering the details of the contested item, namely the reassessment carried out by the Defendant for Q1 of 2018, it was found that the Defendant exercised its right to reassess the return for that period in accordance with Paragraph (1) of Article (26) of the VAT Law. The adjustment to the domestic sales subject to the standard rate was made based on revenue that the Plaintiff failed to disclose, which the Defendant discovered through a third party (the Ministry of Justice), as indicated in the Defendant's written response and the final assessment notice dated 29/07/2021. The Plaintiff submitted documentation of title deeds transferred to buyers, showing the supply dates, and it was revealed that the Plaintiff transferred ownership of four plots of land on 15/05/1439 AH (corresponding to 01/02/2018), located in various regions of the Kingdom, with deed numbers (...) and (...) and (...) and (...), The Plaintiff acknowledged that there were no other transfers (title deed registrations) for 2018. He also confirmed in his statement of claim and in his objection submitted to the Defendant (ZATCA) that the value of sales related to those deeds during the first quarter of 2018 amounted to a total of SAR 3,000,000. It was established that the transfer dates of those deeds, and therefore the dates on which the supply was confirmed, fall within the first quarter of 2018. This affirms the validity of Defendant's reassessment for the disputed period, as the supply indeed took place during Q1 2018. As for Plaintiff's argument that he declared those supplies and submitted VAT payment receipts for the same tax amounting to SAR 150,000 during the fourth quarter of 2018, based on instructions from an employee of ZATCA, and that the tax should not be paid twice,

According to the provisions of the VAT Agreement, Law, and Implementing Regulations, the Plaintiff has the right to correct the Q4 2018 return under Paragraph (2) of Article (63) of the Regulations, if it is proven that his declaration for that period was incorrect. He may request a refund of the overpaid amount or have it carried forward to offset other VAT liabilities in different periods, in accordance with Paragraphs (1)(b) and (2) of Article (69) of the Regulations. Since the procedure taken by the Defendant (ZATCA) was found to be correct, the Department concludes to dismiss Plaintiff's claim.



Second: Imposition of the Filing Error fine: Since the Department concluded in the first item, regarding the final assessment for the tax period of the first quarter of 2018, to uphold the procedure undertaken by the Defendant, and as matters related to it follow the same legal ruling, then accordingly, and based on Paragraph (1) of Article (42) of the Value Added Tax Law, which states: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due". Accordingly, the Department concludes to reject Plaintiff's claim regarding the imposition of the fine for the filing error. Third: Imposition of the Late Payment fine: Since the Department concluded in the first item, regarding the final assessment for the tax period of the first quarter of 2018, to uphold the procedure undertaken by the Defendant, and as any related matters follow the same ruling, and based on Article (43) of the Value Added Tax Law, which states: "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid". Accordingly, the Department finds that Plaintiff's claim regarding the imposition of the late payment fine should be dismissed.

Decision:

First: In Form: Plaintiff's claim regarding the domestic sales subject to the standard VAT rate for the tax period in question is dismissed, as Defendant's decision was found to be valid.

Second: Plaintiff's claim objecting to the filing error fine for the tax period in question is dismissed, as Defendant's decision was found to be valid.

Third: Plaintiff's claim objecting to the late payment fine for the tax period in question is dismissed, as Defendant's decision was found to be valid.

This decision was issued in the presence of both litigants, and the Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following the specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1467)
Delivered in Case No. (V-68380-2021)

Key words:

Value Added Tax – Final Assessment – Real Estate Supply Exemption – Filing Error fine – Statutory Period – Claim Dismissed

Abstract

The Plaintiff seeks the annulment of the decision issued by Zakat, Tax and Customs Authority regarding the final assessment for the tax period related to the first quarter of 2021, along with the associated fines. The claim is based on ZATCA's exclusion of the entire amount of domestic purchases subject to the standard VAT rate (15%) and part of the purchases subject to the 5% rate, on the Grounds that such purchases are not eligible for deduction due to the Plaintiff claiming invoices related to a period following the VAT exemption of real estate supply. The Defendant responded by upholding the content of its written reply. According to statutory provisions, a claim filed by a party with legal standing and within the prescribed legal period must be accepted in form. The Department established the following: The Plaintiff did not submit the invoices issued to him that were disqualified from input tax deduction due to their issuance dates falling after the real estate supply became VAT-exempt. Furthermore, the Plaintiff failed to provide evidence that representatives of the Defendant informed him of his eligibility to deduct such purchases. In light of the lack of sufficient supporting documents, the Department finds Defendant's action to be valid and thus dismisses Plaintiff's claim. Regarding the filing error fine: Since the Department concluded in the first item, regarding the final assessment for Q1 of 2021, to uphold the procedure undertaken by the Defendant, and as related matters follow the same ruling, the Department therefore dismisses Plaintiff's claim concerning the imposition of the filing error fine. Conclusion: The claim is accepted in form, but Plaintiff's claim regarding the domestic purchases subject to the standard VAT rate for the disputed tax period is dismissed, and the decision to impose the filing error fine for the same period is upheld. The decision is considered final and enforceable.

Instruments:

- Articles (22/1), (42/1), and (50) of [the Value Added Tax Law issued pursuant to Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (30/1), (49/7,9), (51/2), and (70/14) of [the Implementing Regulations of the Value Added Tax Law issued by Decision of the Board of Directors of the General Authority of Zakat and Tax No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday, dated 29/06/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah in Jeddah, established pursuant to the Income Tax Law issued



by Royal Decree No. (M/1) dated 15/01/1425 AH, and formed by Royal Order No. (65474) dated 23/12/1439 AH, convened to consider the aforementioned case. Since the Case fulfilled the established regulatory requirements, it was lodged with General Secretariat of Tax Committees on 02/09/2021 AD.

The facts of this case are summed up in that Mr. National ID No. (...), in his personal capacity, submitted a statement of claim objecting to Defendant's decision regarding the final assessment for the tax period related to the first quarter of 2021, along with the associated fines. Upon presenting Plaintiff's statement of claim to Defendant's representative, a two-page written response was submitted, which the Department has reviewed.

On Tuesday, 24/05/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened a session remotely in accordance with the remote virtual litigation procedures pursuant to the Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. Upon calling the parties to the case, the Plaintiff, Mr. (...) (a Saudi national), appeared in person, holding National ID No. (...), and Mr.(...) also appeared. (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated ... / ... / ... issued by Deputy Governor for Legal Affairs. When asked about his claim, the Plaintiff responded in accordance with the statement of claim submitted to the General Secretariat of Zakat, Tax, and Customs Committees and affirmed its contents. When Defendant's representative was asked for a response, he affirmed the contents of the written reply. When asked for his response, the Plaintiff stated that there was a (ticket) number which he had provided to Defendant's representative. Upon reviewing the ticket number, Defendant's representative requested a postponement to allow time to respond to this argument. Accordingly, the Department decided to adjourn the hearing to a later session scheduled for 29/06/2022.

On Wednesday, 29/06/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened a session remotely in accordance with the remote virtual litigation procedures pursuant to the Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. Upon calling the parties to the case, the Plaintiff, Mr. (...) (a Saudi national), appeared in person, holding National ID No. (...), and Mr.(...) also appeared. (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated ... / ... / ... issued by Deputy Governor for Legal Affairs. At the beginning of the session, the Department requested Defendant's representative to present the information for which the postponement was previously granted. Accordingly, the Department reviewed the submitted information. When both parties were asked if they wished to add anything further, they stated that they were satisfied with the previously submitted materials. Therefore, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

After reviewing Case documents, and upon thorough examination, and in light of the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/6/1425 AH as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Disputes and Violations Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Whereas the Plaintiff seeks, through his claim, to annul the decision issued by the Defendant regarding the final assessment for the tax period related to the first quarter of 2021, and since this dispute falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes pursuant to Royal Order No. (26040), dated 21/04/1441 AH, and as the



claim was filed by a party with legal standing and within the legally prescribed period, the Department finds the claim formally admissible.

On Merits: After reviewing the full case file and the defenses contained therein, the Department finds that the dispute centers on:

First: In Form: The final assessment notice for the tax period related to the first quarter of 2021, resulting from Defendant's exclusion of the entire amount of domestic purchases subject to the standard VAT rate (15%) and part of the purchases subject to the 5% rate. This was due to the fact that these purchases were not eligible for deduction, as the Plaintiff claimed invoices related to a period after the real estate supply exemption that began on 04/10/2020, in violation of Paragraph (9) of Article (49) of the Implementing Regulations of the Value Added Tax Law, as stated in the final assessment notice submitted by the Plaintiff, dated 26/05/2021. Additionally, Paragraph (1) of Article (22) of the Value Added Tax Law, titled "Tax Deduction," states: "The regulations shall specify the following: 1. The conditions and rules for tax deduction, methods for calculating the deduction rate, and the conditions under which input VAT amounts that are non-deductible may be considered equal to zero." Article (50) of the Saudi Value Added Tax Law also provides that: "Subject to the provisions of Article (28) of the Law, the Authority shall be responsible for the administration, audit, assessment, and collection of the tax, and may take any measures it deems necessary to do so." Paragraph (1) of Article (30) of the Implementing Regulations of the Value Added Tax Law states: "1. Subject to any other provisions in these Regulations, the following supplies shall be exempt from Value Added Tax: a) The Supply of real estate, whether commercial, residential or agricultural real estate or developed or undeveloped bare land, through a transfer of ownership or transfer of the right to dispose of the same as an owner; b) The Supply of residential real estate through lease or license" Paragraph (7) of Article (49) of the Implementing Regulations states: "Input VAT may not be deducted unless the taxable person has evidence that the amount of input VAT paid or due is in accordance with the provisions specified in Article (48) of this Agreement" Paragraph (9) of Article (49) of the Implementing Regulations states: "Where a taxable person incurs input tax on the purchase, construction, renovation, or modification of real estate for the purpose of making a taxable supply, and the real estate supply is subsequently exempted pursuant to Paragraph (1)(a) of Article (30) of these Regulations, the person may deduct that tax, subject to the provisions of Paragraph (7) of this Article, in accordance with the following conditions: (a) The supplies relating to the purchase, construction, renovation, or modification of the real estate must have been received before the exemption became effective. (b) The input tax relating to the supplies mentioned in this paragraph must be deducted in the tax return submitted to ZATCA for any tax period, with the last allowable period being the tax period ending on December 31, 2020. (c) The proportional deduction method must be used if the incurred tax cannot be wholly attributed to the real estate supplied, or if the tax incurred is included in a tax invoice for a continuous supply partially before and partially after the exemption effective date..." Paragraph (2) of Article (51) of the Implementing Regulations states: "Input tax incurred by a taxable person on goods and services that relate exclusively and directly to exempt supplies shall not be deductible." Paragraph (14) of Article (70) also states: "Pursuant to the provisions of Paragraph (1) of this Article, a person engaged in an economic activity as a licensed real estate developer may, under the conditions and controls specified by ZATCA, submit a request to be registered as an eligible person to recover VAT paid by him on goods and services received in the Kingdom related to that economic activity, in accordance with the recovery rules specified in this Article. ZATCA may set other rules and procedures for the recovery of tax by such eligible persons." Given that the Plaintiff objects to the final assessment issued by the Defendant for Q1 of 2021, arguing that Defendant's decision to exclude the purchases was incorrect and stating that "the purchases were deducted after contacting representatives of Zakat, Tax and Customs Authority (19993), who informed us to proceed accordingly", and since the Plaintiff failed to submit the invoices issued to him, the deduction of which was disallowed because the invoice dates fall after the VAT exemption date for real estate



supply (04/10/2020), this is in violation of Paragraph (2) of Article (51) of the Regulations. Furthermore, Plaintiff's case does not meet the conditions outlined in Paragraph (9) of Article (49) of the Regulations. Moreover, the right to recover the VAT paid on input related to Plaintiff's real estate supplies exempted after 04/10/2020 is preserved under Paragraph (14) of Article (70) of the Regulations. As the Plaintiff did not provide any evidence proving that representatives of the Defendant advised him of his eligibility to deduct the purchases, and in light of the lack of sufficient and supporting documentation for his claim, the Department finds Defendant's actions to be valid and concludes to dismiss Plaintiff's claim.

Second: Imposition of the fine for Return Filing Error: Since the Department concluded in the first item, regarding the final assessment for the tax period of the first quarter of 2021, to uphold the procedure undertaken by the Defendant, and as matters related to it follow the same legal ruling, then accordingly, and based on Paragraph (1) of Article (42) of the Value Added Tax Law, which states: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due". Accordingly, the Department concludes to reject Plaintiff's claim regarding the imposition of the fine for the filing error.

Based on the above Grounds, and based on the Common VAT Agreement, VAT Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:

Decision:

First: In Form: Dismissal of Plaintiff's claim regarding the domestic purchases subject to the standard VAT rate for the tax period in question, as Defendant's decision was found to be valid.

Second: Annulment of Defendant's decision to impose the filing error fine for the tax period in question.

This decision was issued in the presence of both litigants, and the Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following the specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1466)
Delivered in Case No. (V-83897-2021)

Key words:

Value Added Tax – Final Tax Assessment – Sales Subject to the Standard VAT Rate – Reassessment of Domestic Purchases Subject to VAT – Filing Error fine – Late Payment fine – Statutory Period – Claim Dismissed

Abstract

The Plaintiff seeks to annul the decision issued by Zakat, Tax and Customs Authority regarding the final tax assessment for the second quarter of 2020, along with the associated fines. ZATCA explained that the Plaintiff initially disclosed sales subject to the standard VAT rate for the second quarter of 2020, but later amended the declaration to reflect that there were no such taxable sales. Upon reviewing Plaintiff's data, ZATCA discovered undeclared revenues and accordingly exercised its authority to reassess and include those sales. According to statutory provisions, if a claim is filed by a person with legal standing and within the legally prescribed period, it must be accepted in form. The Department found the following: The Plaintiff failed to provide any documentation contradicting ZATCA's findings regarding taxable sales subject to VAT. Therefore, the Department upholds the procedure taken by the Defendant (ZATCA). As for the reassessment of domestic purchases subject to the standard VAT rate, the Plaintiff requests that purchases previously not deducted be considered in the calculation of net tax due. However, ZATCA clarified in its written response that the Plaintiff amended the return by deleting those purchases and failed to disclose them. Accordingly, the Department finds no legal basis for Plaintiff's objection on this item. Regarding the fines for filing errors and late payment: Since the Department upheld Defendant's actions in the first item related to the final assessment for the second quarter of 2020, and as related matters follow the same legal ruling, the Department concludes to dismiss Plaintiff's claim. Conclusion: The claim is accepted in form, and Plaintiff's claims on all points of dispute are dismissed. The decision is deemed final and enforceable.

Instruments:

- Article (44/1) of [the Common Value Added Tax Agreement for the GCC States, issued pursuant to Royal Decree No. M/51 dated 03/05/1438 AH.](#)
- Articles (26/1), (42/1), and (43) of [the Value Added Tax Law issued pursuant to Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (14) and (49/8) of [the Implementing Regulations of the Value Added Tax Law issued by Decision No. \(3839\) of ZATCA's Board of Directors, dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.



On Tuesday, 28/06/2022 AD, First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, formed pursuant to Article (67) of the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/1/1425 AH and amendments thereof, constituted by Royal Order No. (65474) of 23/12/1439 AH, held its session to consider the aforementioned case. Since the Case fulfilled the established regulatory requirements, it was lodged with General Secretariat of Tax Committees on 25/11/2021 AD.

The facts of this case are summed up in that Mr. holding National ID No. (...), acting on his own behalf, he submitted a statement of claim objecting to the defendant's decision regarding the final assessment for the tax period related to the second quarter of 2020 and the resulting penalties. Upon presenting the claimant's statement of claim to Defendant's representative, the latter submitted a two-page written response, which was reviewed by the Department.

On Tuesday, 28/06/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened its first session remotely in accordance with the remote virtual litigation procedures pursuant to the Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. Upon calling the parties to the case, the Plaintiff, Mr. (...) (a Saudi national), appeared in person, holding National ID No. (...), and Mr.(...) also appeared. (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated ... / ... / ... issued by Deputy Governor for Legal Affairs. When asked about his claim, the Plaintiff responded in accordance with the statement of claim submitted to the General Secretariat of Zakat, Tax, and Customs Committees and affirmed its contents. When Defendant's representative was asked for a response, he affirmed the contents of the written reply. When both parties were asked if they wished to add anything further, they stated that they were satisfied with the materials previously submitted. Accordingly, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

After reviewing Case documents, and upon thorough examination, and in light of the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/6/1425 AH as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Disputes and Violations Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Whereas the Plaintiff seeks through his claim to annul the decision issued by the Defendant regarding the final tax assessment for the second quarter of 2020, and since this dispute falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and as the claim was filed by a party with legal standing and within the legally prescribed period, the Department finds that the claim must be accepted in form.

On Merits: After reviewing the full case file and the defenses contained therein, the Department finds that the dispute centers on:

First: In Form: Reassessment of Domestic Sales Subject to the Standard VAT Rate: The dispute centers on ZATCA's reassessment of the tax return related to the second quarter of 2020. Additionally, Paragraph (1) of Article (26) of the Value Added Tax (VAT) Law states: "The Authority may conduct a tax assessment for the taxable person regardless of the tax return submitted by them" Article (14) of the Implementing Regulations of the Value Added Tax Law states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity



or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom.”

ZATCA clarified in its written response that the Plaintiff initially submitted his return and disclosed sales subject to the standard VAT rate for the tax period of the second quarter of 2020. He then amended the return, stating that there were no such taxable sales. Consequently, ZATCA reviewed his data with the Ministry of Justice and found undisclosed revenues. Accordingly, ZATCA exercised its granted powers to reassess and add the sales. Based on the foregoing, and due to Plaintiff's failure to submit any documents proving otherwise, the Department finds the procedure taken by the Defendant (ZATCA) to be valid and supports its action.

Second: Reassessment of Domestic Purchases Subject to the Standard VAT Rate: The dispute concerns Plaintiff's claim for deducting purchases related to the second quarter of 2020. Paragraph (1) of Article (44) of the Common GCC Value Added Tax Agreement states: "A taxable person shall have the right to deduct from the amount of tax due and payable in a Member State the value of deductible tax incurred in that State in the course of making taxable supplies." Moreover, Paragraph (8) of Article (49) of the Implementing Regulations of the Law of Value Added Tax stipulates: "A deduction of Input Tax may be made by a Taxable Person in a Tax Period subsequent to that Tax Period including the date of Supply, provided that the Taxable Person remains eligible to make such deduction under the other provisions of these Regulations. Input tax may not be deducted in any period after five years from the calendar year in which the supply occurred."

After reviewing the contents of the case file, it appears that the Plaintiff is requesting the consideration of purchases that were not deducted when calculating the net tax due, and that such purchases be taken into account by the Defendant (ZATCA). The Plaintiff stated the following: "I kindly request Your Excellency to direct the relevant party to review the amount assessed against us in the final assessment for Q2 issued by the General Authority of Zakat and Tax, as the sales amount of SAR 1,845,000 was calculated for this period without considering or including the value of purchases for which VAT was paid." Meanwhile, the Defendant (ZATCA) indicated in its written response that the Plaintiff amended the return by removing the purchases and failed to disclose them. Upon reviewing the final assessment notice issued by the Defendant for Q2 of 2020, it was found that the estimated value of purchases was SAR 0 instead of SAR 0, as no adjustments were made by ZATCA in this regard. Accordingly, the Department finds that there is no legal basis for Plaintiff's objection on this point. Furthermore, with regard to his request for deduction, the right to deduct input tax is exclusively granted to the taxable person under Paragraph (1) of Article (44) of the Agreement. Therefore, the Department concludes to dismiss Plaintiff's claim.

Third: Imposition of the Filing Error fine: Since the Department concluded in the first item, regarding the final assessment for the tax period of the second quarter of 2020, to uphold the procedure undertaken by the Defendant, and as related matters follow the same legal ruling, then based on Paragraph (1) of Article (42) of the Value Added Tax Law, which states: "Any Person who files an incorrect Tax Return to ZATCA, amends a Tax Return after filing files any document with ZATCA in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due". Accordingly, the Department concludes to dismiss Plaintiff's claim regarding the imposition of the filing error fine.

Fourth: Imposition of the Late Payment fine: As the Department upheld Defendant's action regarding the final tax assessment for Q2 of 2020, and as associated matters follow the same ruling, then in accordance with Article (43) of the Value Added Tax Law, which states: "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not



been paid”. Hence, the Department concludes to dismiss Plaintiff’s claim regarding the imposition of the late payment fine.

Based on the above Grounds, and based on the Common VAT Agreement, VAT Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:

Decision:

First: In Form: Plaintiff’s claim regarding the domestic sales subject to the standard VAT rate for the tax period in question is dismissed, as Defendant’s decision was found to be valid.

Second: Dismissal of Plaintiff’s claim regarding the domestic purchases subject to the standard VAT rate for the tax period in question, as Defendant’s decision was found to be valid.

Third: Plaintiff’s claim objecting to the filing error fine for the tax period in question is dismissed, as Defendant’s decision was found to be valid.

Fourth: Plaintiff’s claim objecting to the late payment fine for the tax period in question is dismissed, as Defendant’s decision was found to be valid.

This decision was issued in the presence of both litigants, and the Department set a thirty days’ period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following the specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah’s Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1468)
Delivered in Case No. (V-84381-2021)

Key words:

Value Added Tax – Filing Error fine – Delay in Receiving Buyer's Exemption Tax – Statutory Period

Abstract

The Plaintiff seeks to annul the decision issued by Zakat, Tax and Customs Authority regarding the filing error fine related to the second quarter of 2018. The claim arises from ZATCA's amendment of Plaintiff's tax return. According to statutory provisions, if a claim is submitted by a party with legal standing and within the legally prescribed period, it must be accepted in form. The Department established the following: The Plaintiff requests the cancellation of the fine, stating in his claim that he postponed the tax amount to the second quarter of 2020 due to a delay in receiving the buyer's tax exemption from the Ministry of Housing. This delay caused him to be late in paying the tax, which he eventually paid from his personal account. However, tax returns must be submitted correctly and in accordance with the law. The Department found that the Plaintiff failed to submit his return accurately and did not provide supporting documents for his claims, which remains his responsibility. Conclusion: The claim is accepted in form, and Plaintiff's objection regarding the filing error fine for the relevant tax period is dismissed. The decision is considered final and enforceable.

Instruments:

- Article (42/1) of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- Article (62/1, 2/a-b) of [the Implementing Regulations of the Value Added Tax Law issued by decision of the Board of ZATCA No. \(3839\) on 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday, 28/06/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (65472) dated 23/12/1439 AH convened to hear the above case. Given the case has fulfilled its prescribed legal requirements, it was filed with the General Secretariat on 29/11/2021 AD.

The facts of this case are summed up in that Mr. Mr. (...), National ID No. (...), in his personal capacity, submitted a statement of claim objecting to Defendant's decision regarding the filing error fine for the tax period related to the second quarter of 2018. Upon presenting Plaintiff's statement of claim to Defendant's representative, a one-page written response was submitted, which the Department has reviewed.



On Tuesday, 28/06/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened a session remotely in accordance with the remote virtual litigation procedures pursuant to the Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. Upon calling the parties to the case, ... appeared, (Saudi National, under National ID No. (...)) in his capacity as the legal representative of the Plaintiff pursuant to Power of Attorney No. (...), and Mr. (...) also appeared (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated 18/10/1443 AH, issued by Deputy Governor for Legal Affairs. Having asked Plaintiff attorney about his case, he maintained his statements contained in the statement of claims submitted to General Secretariat of Zakat, Tax and Customs Committees, and having asked Defendant's representative about his reply, he maintained his answers contained in his replication. When both parties were asked if they wished to add anything further, they stated that they were satisfied with the materials previously submitted. Accordingly, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

After reviewing Case documents, and upon thorough examination, and in light of the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/6/1425 AH as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Disputes and Violations Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Whereas the Plaintiff seeks through his claim to annul Defendant's decision regarding his objection to the filing error fine imposed for the tax period related to the second quarter of 2018, and since this dispute falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and as the claim was filed by a party with legal standing and within the legally prescribed period, the Department finds that the claim must be accepted in form.

On Merits: After reviewing the full case file and the arguments presented, the Department found that the dispute centers on the imposition of a filing error fine for the tax period related to the second quarter of 2018, which resulted from the amendment made by the Defendant (ZATCA) to Plaintiff's return. Paragraph (1) of Article (62) of the Implementing Regulations of the Value Added Tax Law states: "The taxable person or their representative must submit their tax return to the Authority no later than the last day of the month following the end of the tax period to which the return relates." Paragraph (2)(a-b) of the same article further states: "In addition to the information required under Article Forty of these Regulations, ZATCA may require, in the approved return form, disclosure of the following information related to the relevant tax period: (a) The total value of all supplies of goods and services subject to the standard and zero rates made by the taxable person, and the total output VAT on such supplies. (b) The total value of all goods and services supplied to the taxable person and the total deductible input VAT." Paragraph (1) of Article (42) of the Value Added Tax Law states: "Any person who files an incorrect tax return to the Authority, amends a tax return after being filed, or files any document with the Authority in relation to the tax due by him which results in an error in the calculation of the tax amount resulting in an amount that is less than the tax due shall be subject to a fine equal to 50% of the difference between the calculated tax and the tax due". After reviewing the full case file and the arguments presented, it appears that the Plaintiff is requesting the cancellation of the fine. In his statement of claim, he indicated that he deferred the tax amount to the second quarter of 2020 due to a delay in receiving the buyer's exemption tax from the Ministry of Housing, which caused a delay in paying the tax. He stated that he eventually paid the



tax from his personal account. However, tax returns must be submitted correctly, and the Department found that the Plaintiff failed to submit his return properly. Moreover, he did not provide any supporting documents to substantiate his claims, which he was obligated to do. Accordingly, the imposition of the fine is justified based on Paragraph (1) of Article (42) of the Value Added Tax Law, and the Department concludes to uphold Defendant's decision regarding the filing error fine.

Based on the above Grounds, and based on the Common VAT Agreement, VAT Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:

Decision:

- Plaintiff's claim objecting to the filing error fine for the tax period in question is dismissed, as Defendant's decision was found to be valid.

This decision was issued in the presence of both litigants, and the Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following the specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax
Violations and Disputes in Jeddah

Decision No. (VJ-2022-1488)
Delivered in Case No. (V-
82443-2021)

Key words:

Value Added Tax – Field Inspection fine – Non-Compliance with Tax Invoice Requirements – Field Audit Visit – Statutory Period – Plaintiff's Claim Dismissed

Abstract

The Plaintiff seeks to annul the decision issued by Zakat, Tax and Customs Authority regarding the imposition of a field inspection fine, due to non-compliance with tax invoice requirements as a result of failure to issue a proper tax invoice. According to statutory provisions, if a claim is submitted by a party with legal standing and within the legally prescribed period, it must be accepted in form. The Department found that upon reviewing the invoices issued by the Plaintiff, and noting that the Plaintiff did not submit any supporting documents to prove the validity of his claim, nor did he present any samples of invoices dated prior to the field audit visit to prove that tax invoices had been issued, the imposition of the fine was valid. Conclusion: The claim is accepted, Plaintiff's claim is rejected due to the confirmed validity of Defendant's decision to impose the field violation fine in question and the decision is considered final and enforceable.

Instruments:

- Article (45/3) of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday, 29/06/2023 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, established pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/02/1425 AH as amended, formed by Royal Order No. (65474) dated 23/12/1439 AH, held a session to hear the above case. Since the Case fulfilled the established regulatory requirements, it was lodged with General Secretariat of Tax Committees on 16/11/2021 AD.

The facts of this Case are summarized as follows: Mr..... National ID No. (...), in his capacity as the owner of establishment for Car Rental Office, Commercial Registration No. (...), submitted a statement of claim objecting to the decision issued by the Defendant regarding the imposition of the field inspection fine. Upon presenting Plaintiff's statement of claim to Defendant's representative, a one-page written response was submitted, which the Department has reviewed. On Wednesday, 29/06/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened a session remotely in accordance with the remote virtual litigation procedures pursuant to the Article 15.2 of the Tax Dispute and Violation Committee



Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. Upon calling the parties to the case, neither the Plaintiff nor his representative appeared. However, Mr. (...) (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated ... / ... / ... issued by Deputy Governor for Legal Affairs. Upon asking Defendant's representative for a response, he stated that he stands by the response memorandum submitted in case file and asserts case validity for adjudication according to Article (20) of Tax Dispute and Violation Committee Procedures. Consequently, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

After reviewing Case documents, and upon thorough examination, and in light of the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/6/1425 AH as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Disputes and Violations Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Whereas the Plaintiff seeks through his claim to annul Defendant's decision regarding the imposition of a field inspection fine, and since this dispute falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and as the claim was submitted by a party with legal standing and within the legally prescribed period, the Department finds that the claim must be accepted in form.

On Merits: Upon examining the case documents and the responses of both parties, after allowing sufficient time for them to present their arguments, the Department found that the Defendant issued a decision imposing a field inspection fine on the Plaintiff for non-compliance with tax invoice requirements, specifically for failing to issue a tax invoice, in the amount of SAR 10,000. The Defendant submitted a field inspection report dated ... / ... / ..., signed by the Taxpayer, which stated the violation of not issuing tax invoices, as rental contracts were issued without corresponding tax invoices. The Defendant also submitted two contracts from Plaintiff's car rental business (... Car Rental). The Plaintiff claimed that the violation was unfounded, asserting that he issues tax invoices immediately, whether or not requested by the customer. However, upon reviewing the invoices issued by the Plaintiff, the Department found that he did not submit any supporting documents to prove his claim, nor did he provide any samples of invoices dated before the field inspection to demonstrate that tax invoices were in fact being issued. Accordingly, due to the absence of evidence substantiating Plaintiff's claim, the Department finds the imposition of the fine valid under Paragraph (3) of Article (45) of the Value Added Tax Law. Therefore, the Department unanimously concludes that Defendant's action in imposing the fine was lawful, and based on the foregoing, the Department rules as follows:

Decision:

- Plaintiff's claim is rejected, as Defendant's decision to impose the field inspection fine in question is found to be valid.

This decision was made in presence of both parties, in accordance with provisions of Article (56) of Law of Procedure Before Sharia Courts.

The Department has set thirty (30) days for receiving a copy of the decision, and may extend such period for another thirty (30) days, as it deems appropriate. This decision shall be deemed final and enforceable in accordance with provisions of Article (42) of Tax Dispute and Violation Committee Procedures.



May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1508)
Delivered in Case No. (V-80435-2021)

Key words:

Value Added Tax – Final Tax Assessment – Amounts Not Subject to VAT – Exclusion of VAT-Taxable Sales – Filing Error fine – Late Payment fine – Statutory Period – Claim Dismissed

Abstract

The Plaintiff seeks to annul the decision issued by Zakat, Tax and Customs Authority regarding the final tax assessment for the third quarter of 2018. ZATCA requested the Plaintiff to clarify the nature of certain revenues appearing in Plaintiff's account; however, the Plaintiff failed to respond. As a result, and due to the lack of justification for these deposits, ZATCA subjected them to VAT. According to statutory provisions, if a claim is submitted by a party with legal standing and within the legally prescribed period, it must be accepted in form. The Department found that: That upon reviewing Plaintiff's statement of claim, in which he referred to amounts allegedly not subject to VAT, and considering that he failed to provide supporting documents to substantiate his claim, in addition to his reference to revenues from contracts concluded in 2017, prior to the implementation of VAT, it is evident that he did not provide proof to support his claim that such amounts should not be subject to VAT. Accordingly, the Department finds no basis for excluding these VAT-taxable sales and rules to dismiss Plaintiff's claim on this point. As for the fines related to the filing error and late payment, and since the Department upheld ZATCA's procedure in the first item related to the final tax assessment for Q3 2018, and as matters related to it follow the same ruling, the Department concludes to dismiss Plaintiff's claim in this regard as well. Conclusion: Plaintiff's claim is dismissed in all aspects under dispute. The decision is considered final and enforceable.

Instruments:

- Article (26/1) of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- Articles (14) and (79/1, 3) of [the Implementing Regulations of Value Added Tax Law issued by Decision of the Board of Directors of the General Authority of Zakat and Income \(currently ZATCA\) No. \(3839\) dated 14/12/1438 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday, dated 17/07/2022, the First Department for the Resolution of Value Added Tax Violations and Disputes in Jeddah, established pursuant to the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, and formed by Royal Order No. (65474) dated 23/12/1439 AH, convened to consider the aforementioned case. Since the Case fulfilled the



established regulatory requirements, it was lodged with General Secretariat of Tax Committees on 07/11/2021 AD.

The facts of this Case are summarized as follows: Mr..... National ID No. (...), in his capacity as the legal representative of (...) Company, Commercial Registration No. (...), pursuant to the Articles of Association, submitted a statement of claim objecting to the decision issued by the Defendant regarding the final tax assessment for the third quarter of 2018. Upon presenting the Plaintiff company's statement of claim to Defendant's representative, a three-page written response was submitted. The Plaintiff company also submitted a three-page reply memorandum, all of which have been reviewed by the Department.

On Sunday, 17/07/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened a session remotely in accordance with the remote virtual litigation procedures pursuant to the Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. Upon calling the parties to the case, ... appeared, (Saudi National, under National ID No. (...)) in his capacity as a representative of the Plaintiff pursuant to the Articles of Association, and Mr. (...) also appeared (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .../.../... issued by Deputy Governor for Legal Affairs. When asked about the claim, Plaintiff's representative responded in accordance with the statement of claim submitted to the General Secretariat of Zakat, Tax, and Customs Committees and affirmed its contents. Having asked Defendant's attorney about his answer, Defendant's attorney insisted on his statements included in the answer. Having asked both parties to the Case if they desire to add any memorandums, they satisfied with what they previously submitted. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

After reviewing Case documents, and upon thorough examination, and in light of the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/6/1425 AH as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Disputes and Violations Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Whereas the Plaintiff seeks through its claim to annul the decision issued by the Defendant regarding the final tax assessment for the third quarter of 2018, and since this dispute falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes pursuant to Royal Order No. (26040), dated 21/04/1441 AH, and as the claim was submitted by a party with legal standing and within the legally prescribed period, the Department finds that the claim must be accepted in form.

On Merits: After reviewing the full case file and the arguments contained therein, the Department found that the dispute centers on Plaintiff's objection to ZATCA's reassessment of the tax return for the third quarter of 2018, whereby the value of sales subject to the standard VAT rate was adjusted to SAR 537,689.00 instead of SAR 0.00, according to the final assessment notice. Paragraph (1) of Article (26) of the Value Added Tax Law states: "The Authority may conduct a tax assessment for the taxable person regardless of the tax return submitted by them" Article (14) of the Implementing Regulations of the Value Added Tax Law states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom." Paragraph (1)



of Article (79) of the Implementing Regulations of the Value Added Tax Law states: "In the cases specified in the Law, if an invoice is issued or consideration is paid before the effective date of the Law, and the supply takes place on or after that date, the supplier of goods or services shall be considered to have made a taxable supply on the date of supply. In accordance with the provisions of the Agreement, the taxable person in such cases must issue an additional invoice showing the VAT charged on the supply of goods or services, unless that VAT was already included in the invoice issued prior to the Law's effective date." Paragraph (3) of Article (79) of the Implementing Regulations of the Value Added Tax Law states: "Any Supply of Goods or services made in respect of a contract which does not anticipate the application of VAT to the Supply may be treated as zero-rated by the Supplier until the earlier of the time the contract expires, is renewed or 31 December 2018 AD provided that: (a) The contract was entered into before 30 May 2017;

(b) The customer is entitled to fully deduct or recover the input tax related to the supply of goods or services;

(c) The customer provides the supplier with a written certificate confirming the full deductibility of input tax related to the supply." The Plaintiff objects to ZATCA's reassessment of the tax return for the third quarter of 2018, requesting the exclusion of revenues not subject to VAT amounting to SAR 386,689. These include capital contributions from partners as well as contracts signed prior to the implementation of VAT. Upon reviewing ZATCA's response memorandum, it states that ZATCA had requested the Plaintiff to clarify the revenues recorded in Plaintiff's account, but the Plaintiff did not respond. Therefore, due to the lack of justification for those deposits, ZATCA subjected them to VAT.

First: In Form: Upon reviewing Plaintiff's statement of claim, in which he referred to details of the amounts not subject to VAT, he noted that there was a deposit of SAR 150,000 from partner (...) for the purpose of settling company debts and providing financial support for partner shares. However, the Plaintiff failed to provide supporting documentation such as a partners' current account statement or accounting entries proving the financing transaction. Additionally, the Plaintiff referenced revenues from contracts concluded in 2017 before the VAT implementation, such as: A contract with (...) Company valued at SAR 36,689, and a contract with (...) Hospital and Dr. (...) amounting to SAR (350,000). Upon reviewing Plaintiff's attachments, it is noted that he did not submit any documentation to prove his claim that these amounts are not subject to VAT, such as: (Executed contracts between the Plaintiff and the mentioned parties, in addition to the invoices related to the stated amounts to verify Plaintiff's claim regarding their exemption from VAT). Based on the above, the Department finds that Plaintiff's claim to exclude VAT-taxable sales amounting to SAR 386,689 is rejected due to the lack of supporting evidence validating his claim.

Second: Regarding Imposition of the Filing Error fine: Since the Department concluded in the first item, regarding the final assessment for the tax period of the third quarter of 2018, to uphold the procedure undertaken by the Defendant, and as related matters follow the same ruling, and based on Paragraph (1) of Article (42) of the Value Added Tax Law, which states: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due". Accordingly, the Department concludes to reject Plaintiff's claim regarding the imposition of the fine for the filing error.

Third: Imposition of the Late Payment fine: Since the Department concluded in the first item, regarding the final assessment for the tax period of the third quarter of 2018, to uphold the procedure undertaken by the Defendant, and as related matters follow the same ruling, then based on Article (43) of the Value Added Tax Law, which states: "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid"



Based on the foregoing and in accordance with the provisions of Common Agreement, the Value Added Tax Law and its Implementing Regulations, and Rules of Tax Dispute and Violation Committee Procedures, the Chamber, after deliberation, unanimously decided:

Decision:

First: In Form: Rejection of Plaintiff's claim regarding the item of taxable local sales at the standard rate for the tax period in question, due to the validity of Defendant's decision.

Second: Rejection of Plaintiff's claim regarding the objection to the fine for filing error for the tax period in question, due to the validity of Defendant's decision.

Third: Rejection of Plaintiff's claim regarding the objection to the late payment fine for the tax period in question, due to the validity of Defendant's decision.

This decision was issued in the presence of both parties. The Department has set a period of thirty (30) days for the collection of a copy of the decision, which may be extended for an additional thirty (30) days at the Department's discretion. Either party may appeal the decision within thirty (30) days from the day following the date set for its collection. If no appeal is submitted within this period, the decision becomes final and enforceable. The date on which the decision is made available in the electronic system of the General Secretariat shall be considered the official date of delivery.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1785)
Delivered in Case No. (V-83477-2021)

Key words:

Value Added Tax – Field Inspection fine – Cancellation of Field Inspection fine under the Initiative – Case Closed

Abstract

The Plaintiff objected to the decision issued by Zakat, Tax and Customs Authority regarding the imposition of a field inspection fine. When asked for a response, Defendant's representative stated that the fine in question had been canceled. According to statutory provisions, if a claim is submitted by a party with legal standing and within the legally prescribed period, it must be accepted in form. The Department confirmed that the field inspection fine subject of the claim was canceled based on the statement of Defendant's representative and in application of the relevant initiative. Accordingly, the Department concludes that the dispute regarding the field inspection fine has been resolved. Conclusion: The case is considered closed based on Defendant's decision to cancel the fine in accordance with the initiative. The decision is deemed final and enforceable.

Instruments:

Provisions of the Common Agreement, the Value Added Tax Law and its Implementing Regulations, and Tax Violations and Disputes Committee Procedures.

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 22/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (65472) dated 23/12/1439 AH convened to hear the above case. Given the case has fulfilled its prescribed legal requirements, it was filed with the General Secretariat of Tax Committees on 23/11/2021 AD.

Facts of this case are as follows: Mr. ..., National ID No. (...), in his capacity as owner of ... establishment, for Food Supplies, with Commercial Registration No. (...), submitted a statement of claim objecting to Defendant's decision to impose a field inspection fine. Upon presenting Plaintiff's statement of claim to Defendant's representative, he responded with a one-page written memorandum, which was reviewed by the Department.

On Monday, 22/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened a session remotely in accordance with the remote virtual litigation procedures pursuant to the Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. Upon calling parties to the case, Mr. (...) appeared (Nationality), holding National ID No., in his capacity as an attorney for Plaintiff



under Power of Attorney No. (...), and Mr. appeared (a Saudi national), holder of National ID No. (...), appeared in his capacity as a representative of Zakat, Tax and Customs Authority under Authorization Letter No. (...) Dated .../10/1443 AH and issued by the Deputy Governor for Legal Affairs. When asked about his claim, the Plaintiff responded in accordance with the statement of claim submitted to the General Secretariat of Zakat, Tax, and Customs Committees and affirmed its contents.

When Defendant's representative was asked for a response, he stated that the fine in question had been canceled. When both parties were asked if they wished to add anything further, they stated that they were satisfied with the materials previously submitted. Accordingly, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

Having taken cognizance of documents included in Case file, and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) and the relevant laws and regulations.

In Form: Whereas the plaintiff seeks through his claim to annul the defendant's decision regarding the imposition of a field inspection penalty, and since this dispute falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes pursuant to Royal Order No. (26040), dated 21/04/1441 AH, and as the claim was submitted by a party with legal standing and within the legally prescribed period, the panel finds that the claim must be accepted in form.

On Merits: Upon reviewing the case documents and the responses of both parties, after granting them sufficient time to present their arguments, the Department confirmed that the field inspection fine subject of the claim was canceled, based on the statement of Defendant's representative and in application of the relevant initiative. Accordingly, the Department concludes that the dispute concerning the imposition of the field inspection fine has been resolved. Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Department, after unanimous deliberation, decided:

Decision:

- The dispute is resolved by Defendant's decision to cancel the fine in question in application of the initiative.

This decision was made in presence of both parties. The Department has set 30 days for receiving a copy of the decision. However, the Department may extend that time limit for another 30 days as it deems appropriate. This decision is final and enforceable in accordance with Article (42) of the Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period in accordance with Paragraph (3) of Article (33) of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1734)
Delivered in Case No. (V-92846-2021)

Key words:

Value Added Tax – Late Registration fine – Mandatory VAT Registration Threshold – Statutory Period – Claim Dismissed

Abstract

The Plaintiff objected to the decision issued by Zakat, Tax and Customs Authority regarding the imposition of a late registration fine, claiming that the revenue from his business activity did not reach the mandatory VAT registration threshold and requesting that the fine be canceled. According to statutory provisions, if a claim is submitted by a party with legal standing and within the legally prescribed period, it must be accepted in form. The Department found that Plaintiff's revenue exceeded the mandatory registration threshold, based on Plaintiff's financial data (Etimad Platform). As the Plaintiff failed to provide any evidence proving that his revenue did not reach the registration threshold, the Department concludes to dismiss Plaintiff's claim. Conclusion: The claim is accepted in form. Plaintiff's claim is dismissed, as ZATCA's decision to impose the late registration fine was found to be valid. The decision is considered final and enforceable.

Instruments:

- Article (2/50) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Article (1/3) of [the Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Decision No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday, 07/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, established under the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, and constituted pursuant to Royal Decree No. (65474) dated 23/08/1439 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Tax Committees on 02/03/2022.

The facts of this case are summed up in that Mr....., holder of National ID No (....) in his capacity as owner of the Plaintiff establishment, under Commercial Registration No. (...), he submitted a statement of claim objecting to the decision issued by the Defendant to impose a late registration fine.

On Sunday, 07/08/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its First session remotely in accordance with the remote virtual litigation procedures; pursuant to the provisions of Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) and dated 21/04/1441 AH. Upon



calling the parties to the case, no representative of the Plaintiff appeared, while Mr. (...), Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .../10/1443 AH. Issued by the Deputy Governor for Legal Affairs, and upon asking Defendant's representative for a response, he stated that he stands by the response memorandum submitted in case file and asserts case validity for adjudication according to Article (20) of the Rules of Tax Dispute and Violation Committee Procedures. Consequently, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds



After reviewing Case documents, and upon thorough examination, and in light of the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/6/1425 AH as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Disputes and Violations Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Whereas the Plaintiff seeks through his claim to annul the decision issued by the Defendant regarding the imposition of the late registration fine, and since this dispute falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes pursuant to Royal Order No. (26040), dated 21/04/1441 AH, and as the claim was submitted by a party with legal standing and within the legally prescribed period, the Department finds that the claim must be accepted in form.

On Merits: Upon examining the case documents and the responses of both parties, after allowing sufficient time for them to present their arguments, the Department found that the dispute centers on the Defendant (ZATCA) imposing a late registration fine in the amount of SAR 10,000. The Plaintiff claimed that his business revenues did not reach the mandatory VAT registration threshold and requested cancellation of the fine. Paragraph (2) of Article (50) of the Common VAT Agreement for the Gulf Cooperation Council States stipulates: "The mandatory registration threshold is 375,000 Saudi Riyals." Paragraph (1) of Article (3) of the Implementing Regulations of the Value Added Tax Law states: "For registration purposes, every Resident Person in the Kingdom who is not registered by GAZT must at the end of each month calculate the value of his Supplies made in the Kingdom within the twelve months then ended, in accordance with the requirements set out in the Agreement. In cases where this value exceeds the Mandatory Registration Threshold detailed in the Agreement, the Person must apply to GAZT to register within thirty (30) days of the end of that month pursuant to Article eight of these Regulations". After reviewing the full case file and the arguments contained therein, the Department found that Plaintiff's revenues exceeded the mandatory registration threshold, based on his financial data (Etimad Platform). Since the Plaintiff did not submit any documentation proving that his business revenues did not reach the mandatory threshold, the Department concludes to dismiss Plaintiff's claim.

Based on the foregoing and in accordance with provisions of the Common Agreement, the Value Added Tax Law and its Implementing Regulations, and the Rules of Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided:

Decision:

- Plaintiff's claim is dismissed, as Defendant's decision to impose the late registration fine was found to be valid.

This decision was issued in the presence of both parties, in accordance with the provisions of Article (56) of the Law of Civil Procedure. The Department has set a period of thirty (30) days for



collecting a copy of the decision, which may be extended for an additional thirty (30) days at the Department's discretion. The parties may appeal the decision within thirty (30) days from the day following the designated date for collection. If no appeal is submitted within this period, the decision shall become final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1737)
Delivered in Case No. (V-80454-2021)

Key words:

Value Added Tax – Final Tax Assessment – Undeclared Advance Payments – Accounting Based on Cash Basis – Domestic Sales Subject to the Standard Rate – Statutory Period – Claim Dismissed

Abstract

The Plaintiff seeks to annul the decision issued by Zakat, Tax and Customs Authority regarding the final tax assessment for the months of December and June of 2020, along with the resulting fines. The claim arises from ZATCA's inclusion of undeclared advance payments in the Plaintiff's tax return. ZATCA found that the Plaintiff had calculated subscriptions and customer deposits based on the cash accounting method—i.e., recognizing advance payments when received rather than when the VAT liability became due upon the supply of goods. Accordingly, the disputed amount was classified under domestic sales subject to the standard rate. According to statutory provisions, if a claim is submitted by a party with legal standing and within the legally prescribed period, it must be accepted in form. The Department found that: That based on the Plaintiff's statement of claim, he indicated the existence of a non-moving balance from previous years, before the implementation of the VAT Law, with no account activity during the years 2018, 2019, and 2020. The Plaintiff submitted statements of advance payments for the mentioned years to prove the existence of a prior balance but did not provide account transaction details for those years. Conclusion: The claim is accepted in form. The Department upholds the decision of the Defendant and dismisses Plaintiff's claim. The decision is considered final and enforceable.

Instruments:

- Article (23) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Article (26/1) of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- Articles (14), (56/1), (64/1), and (66/6) of [the Implementing Regulations of Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) on 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 08/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, established under the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, and constituted pursuant to Royal Decree No. (65474) dated 23/12/1439 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of the Tax Committees on 02/11/2022.



The facts of this case are summed up in that Mr....., holding National ID No., in his capacity as Plaintiff's attorney under power of attorney No. (...). He submitted a statement of claim objecting to the decision issued by the Defendant regarding the final tax assessment for the months of December and June of 2020 and the resulting fines. Upon presenting Plaintiff's statement of claim to Defendant's representative, a one-page written response was submitted.

On Monday, 08/08/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its First session remotely in accordance with the remote virtual litigation procedures; pursuant to the provisions of Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) and dated 21/04/1441 AH. When calling both litigants, Mr., Saudi National, under National ID No. (...) In his capacity as Plaintiff Attorney, by POA No. (.....), and Mr. Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative by Authorization Letter No. (.....), Dated .../10/1443 AH and issued by the Deputy Governor for Legal Affairs. When Plaintiff's representative was asked about the claim, he responded in accordance with the statement of claim submitted to the General Secretariat of Zakat, Tax, and Customs Committees and affirmed its contents. When Defendant's representative was asked for a response, he affirmed the contents of the written reply. When both parties were asked if they wished to add anything further, they stated that they were satisfied with the previously submitted materials. Accordingly, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

After reviewing Case documents, and upon thorough examination, and in light of the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/6/1425 AH as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Disputes and Violations Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Whereas the Plaintiff seeks through his claim to annul the decision issued by the Defendant regarding the final tax assessment for the months of June and December of 2020 and the resulting fines, and since this dispute falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and as the claim was submitted by a party with legal standing and within the legally prescribed period, the Department finds that the claim must be accepted in form.

On Merits: Upon reviewing the case documents and the responses of both parties, after allowing sufficient time for them to present and submit their arguments, the Department found that the dispute centers on the final assessment notice for the tax period related to June 2020. The dispute arose due to ZATCA (the Defendant) adding undeclared advance payments to Plaintiff's tax return in the amount of SAR 2,801,442.53. Article (23) of the Common VAT Agreement states: "1. Tax becomes due on the date of the supply of Goods or Services, the date of issuance of the tax invoice or upon partial or full receipt of the Consideration, whichever comes First, and to the extent of the received amount". Article (14) of the Implementing Regulations of the Value Added Tax Law states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom." Additionally, Paragraph (1) of Article (56) of the Implementing Regulations of VAT Law, states: "All persons must provide the Authority with any information it requests for the purpose of verifying their tax obligations." Paragraph (1) of Article (26) of the Value Added Tax



Law states: "The Authority may make a Tax assessment of a Taxable Person irrespective of a Tax Return filed" him". and Paragraph (1) of Article (64) of the Implementing Regulations of VAT Law states: "The Authority may make an assessment of the VAT obligations of a Person in respect of one or more Tax Periods"" Paragraph (6) of Article (66) of VAT Law Implementing Regulations states: "The Authority may request, at any time, additional records from the taxable person for the purposes of registration, audit, or assessment procedures, if the Authority deems it necessary and has Grounds to do so. This shall be done through a notice directed to the taxable person, who shall be granted sufficient time to provide the requested records." After reviewing the full case file and the arguments presented, and since the Plaintiff objects to the amendment made by the Defendant (ZATCA) to the tax return for the period related to June 2020, due to the inclusion of undeclared advance payments amounting to SAR 2,801,442.5, the Department examined ZATCA's written response, in which it argued that the disputed amount was subject to VAT based on Article (23) of the Common VAT Agreement. ZATCA found that the Plaintiff had been accounting for customer subscriptions and deposits using the cash basis—i.e., recognizing them upon receipt rather than on the date the tax became due on the supply of goods. Accordingly, the disputed amount was treated as domestic sales subject to the standard VAT rate. The Plaintiff, in their statement of claim, indicated that the amount in question represents a non-moving balance from previous years, before the VAT Law came into effect, and that there was no account activity during the years 2018, 2019, and 2020. The Plaintiff attached advance payment statements for those years to demonstrate the existence of an earlier balance, but failed to provide account transaction history for those years. Based on the above, the Department concludes to uphold Defendant's decision and dismiss Plaintiff's claim.

Based on the foregoing and in accordance with provisions of the Common Agreement, the Value Added Tax Law and its Implementing Regulations, and the Rules of Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided:

Based on the abovementioned Grounds and after deliberation, the Department unanimously decided as follows:

Decision:

- Plaintiff's claim regarding the domestic sales subject to the standard VAT rate for the tax period in question is dismissed, as Defendant's decision was found to be valid.

This decision was issued in the presence of both litigants, and the Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following the specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1743)
Delivered in Case No. (V-89225-2021)

Key words:

Value Added Tax – Final Tax Assessment – Filing Error fine – Late Payment fine – Mandatory Registration Threshold – Final Sales Assessment – Statutory Period

Abstract

The Plaintiff objected to the decision issued by Zakat, Tax and Customs Authority regarding the final tax assessment for the third quarter of 2019, requesting the cancellation of the resulting fines. The Plaintiff claimed that the sales amount was calculated higher than the actual sales, which were based on a sales report he had submitted to ZATCA. He also argued that he registered for VAT at the beginning of 2020, and that his revenues before registration did not reach the mandatory registration threshold. The Department found that: The Plaintiff did not provide any evidence to support his claim, nor did he submit the required and credible documents to validate the accuracy of his reported sales figures and match them against what was declared. Regarding the filing error fine: As the Department concluded in the first item, pertaining to the final sales assessment for Q3 2019, that ZATCA's position was valid, and it was established that the Plaintiff underreported the tax amount due, the Department finds ZATCA's action to be correct. As for the late payment fine: Since the Plaintiff failed to pay the due tax within the statutory deadlines, the Department also finds ZATCA's action to be valid in this regard. Conclusion: The claim is accepted in form, and Plaintiff's claims on all disputed points are dismissed. The decision is deemed final and enforceable.

Instruments:

- Articles (42) and (43) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Article (1/59) of [the Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Decision No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday 21/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, formed pursuant to Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, and Royal Order No. (65474) dated 23/12/1439 AH, held its session to hear the above case. Since the case satisfied the prescribed regulatory procedures, it was filed with the General Secretariat of Tax Committees on 28/12/2021 AD.

The facts of this case are summed up so as... National ID No. (...), in its capacity as owner of (...) Contracting Establishment, Commercial Registration No. (...), submitted a statement of claim objecting to the decision issued by the Defendant regarding the final tax assessment for the third



quarter of 2019, requesting the cancellation of the resulting fines. Upon presenting Plaintiff's statement of claim to Defendant's representative, a two-page written response was submitted, which the Department reviewed.

On Sunday, 21/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its First session via video conference at 05:30 PM, in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the case, neither the Plaintiff nor his representative appeared, while Mr. (...) appeared (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .../10/1443 AH, issued by the Deputy Governor for Legal Affairs, and upon asking Defendant's representative for a response, he stated that he stands by the response memorandum submitted in case file and asserts case validity for adjudication according to Article (20) of the Rules of Tax Dispute and Violation Committee Procedures. Consequently, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds



After reviewing the Case documents, and upon thorough examination, and in light of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/06/1425 AH as amended, Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH as amended and its Implementing Regulations issued by the decision of the Authority's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Whereas the Plaintiff seeks through his claim to annul the decision issued by the Defendant regarding the final tax assessment for the third quarter of 2019, and since this dispute falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and as the claim was submitted by a party with legal standing and within the legally prescribed period, the Department finds that the claim must be accepted in form.

On Merits: After reviewing the full case file and the arguments contained therein, the Department found that the dispute centers on Plaintiff's objection to the final reassessment for the tax period related to the third quarter of 2019. The Plaintiff objected to the sales amount being calculated higher than his actual revenues, which were based on the sales statement he had submitted to the Defendant. The Plaintiff also claimed that he registered for VAT at the beginning of 2020 and that prior to registration, his revenues did not reach the mandatory registration threshold. However, the Plaintiff did not provide the Department with any proof to support his claim, nor did he submit the relevant and credible documentation necessary to verify the accuracy of the reported sales figures and match them with what was declared. Accordingly, the Department concludes to dismiss Plaintiff's claim and uphold Defendant's actions.

Regarding the filing error fine: It is clear that the dispute involves the imposition of a filing error fine for the tax period related to the third quarter of 2019, which was imposed due to Defendant's amendment to the sales figures, as the Plaintiff failed to provide the required documentation. Proper application of VAT requires accurate filing of tax returns, and it was Plaintiff's responsibility to take all necessary measures to ensure correct filing. Since the ruling in the first item, concerning the final assessment for Q3 2019, concluded that Defendant's action was valid, and it was confirmed that the Plaintiff underreported the tax due, the Department finds the imposition of the fine to be correct. This is in accordance with Paragraph (1) of Article (42) of the Value Added Tax Law, which states: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation



to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due"

Regarding the late payment fine: It is clear that the late payment fine imposed on the Plaintiff resulted from ZATCA's review of the tax return for Q3 2019, which revealed a difference in the amount of tax due that was not paid on time. The statutory deadline for paying the due tax is, at the latest, the last day of the month following the end of that tax period, according to the provisions of paragraph (1) of Article (59) of the Implementing regulations of the Value Added Tax Law, which states that: "A taxable person must pay the VAT due for a tax period no later than the last day of the month following the end of that tax period." Since the Plaintiff failed to pay the tax due within the prescribed deadline, the Department finds that the Defendant was correct in imposing the fine, based on Article (43) of the VAT Law, which states: "Anyone who fails to pay the tax due within the period specified in the Regulations shall be subject to a fine equal to 5% of the unpaid tax for each month or part thereof in which the tax remains unpaid." Based on the above, and in accordance with the provisions of the Common VAT Agreement, the VAT Law and its Implementing Regulations, and the Rules of Procedure for the Committees for the Resolution of Tax Violations and Disputes, the Department unanimously rules as follows:

Decision:

First: Plaintiff's claim regarding the domestic sales subject to the standard VAT rate for the tax period in question is dismissed, as Defendant's decision was found to be valid.

Second: Plaintiff's claim objecting to the filing error fine for the tax period in question is dismissed, as Defendant's decision was found to be valid.

Third: Plaintiff's claim objecting to the late payment fine for the tax period in question is dismissed, as Defendant's decision was found to be valid.

This decision was made in presence of both parties, in accordance with provisions of Article (56) of Law of Procedure Before Sharia Courts.

The Department has set 30 days for receiving a copy of the decision. however, the Department may extend that time limit for another 30 days as it deems appropriate. Either party to the case may appeal against the decision within 30 days from the day following the date set for receipt of the decision, whereafter, the decision will be final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1742)
Delivered in Case No. (V-82460-2021)

Key words:

Value-Added Tax – Final Assessment – fine for Filing Error – fine for Late Payment

Abstract

The Plaintiff objected to the decision of Zakat, Tax, and Customs Authority regarding the final assessment for the tax period related to the third quarter of 2019, requesting the cancellation of the fines imposed. The Defendant argued that the claim should be dismissed procedurally due to Plaintiff's failure to submit an objection to ZATCA's decision. The legal texts indicate that if a claim is submitted by an authorized person within the legally prescribed time frame, it must be accepted procedurally. However, the Department found that: the Plaintiff failed to provide evidence of having submitted an objection to ZATCA's decision. Since the case file lacked any document indicating a notification of rejection of such an objection by the Defendant, the Department upheld Defendant's procedural defense and ruled the claim inadmissible. Second: regarding the objection to the fine for the filing error for the third quarter of 2019, the Defendant again argued the inadmissibility of the claim due to the absence of an objection. The Plaintiff failed to prove the submission of an objection, and the case file did not contain any notice of rejection from the Defendant. Therefore, the Department upheld the procedural defense and ruled the claim inadmissible. Third: concerning the fine for late payment resulting from Defendant's amendment to Plaintiff's VAT return for the third quarter of 2019, since the fine arose from that amendment, it is governed by the same ruling. Conclusion: Plaintiff's objection to the amendment of the taxable local purchases under the standard rate for the tax period in question is inadmissible - Plaintiff's objection to the fine for the filing error for the relevant tax period is inadmissible - Plaintiff's claim regarding the fine for late payment is rejected - The decision is deemed final and enforceable.

Instruments:

- Article (43) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (2) and (3) of [Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday, 09/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (65472) dated 23/12/1439 AH convened



to hear the above case. Given the case has fulfilled its prescribed legal requirements, it was filed with the General Secretariat on 16/11/2021 AD.

The facts of this case are summed up so as... The Plaintiff, holding National ID No. (...), submitted a statement of claim in his own capacity, objecting to the decision issued by the Defendant regarding the final assessment for the tax period related to the third quarter of 2019. He requested the cancellation of the fines imposed thereon. Upon presenting Plaintiff's statement of claim to Defendant's representative, a two-page written response was submitted, which the Department reviewed.

On Tuesday, 09/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its First session via video conference at 05:30 PM, in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the case, the presence of the Plaintiff or his representative was not confirmed, while ... appeared (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .../10/1443 AH, issued by the Deputy Governor for Legal Affairs. When asked for his response, Defendant's representative stated that he adheres to the contents of the written reply submitted in the case file. For the validity of the case for adjudication is in accordance with the provisions of Article (20) of the Tax Dispute and Violation Committee Procedures. Accordingly, Department decided to adjourn the session in preparation for the issuance of the decision.

Grounds

After reviewing the Case documents, and upon thorough examination, and in light of the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/6/1425 AH as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form:

First: In Form: Regarding the objection to the amendment of the "taxable local purchases under the standard rate" item for the tax period related to the third quarter of 2019, and upon the Department's review of the case documents, it was found that the Plaintiff submitted the claim through the electronic portal on 16/11/2021. The Defendant argued that the claim should be dismissed procedurally due to Plaintiff's failure to submit an objection to ZATCA's decision, in accordance with Article (2) of Tax Violations and Disputes Committee Procedures, which states: "Any person against whom a decision has been issued by the Authority may file an objection before it within 60 days from the date of notification thereof. The Authority shall decide on the objection within 90 days from the date of filing. If a decision is made to deny the objection or a period of 90 days lapses without deciding thereon, a Taxpayer may, within 30 days from the date of being notified of the denial of the objection or upon the lapse of 90 days without a decision thereon, take any of the following actions: 1. Request the referral of the objection to the internal committee for settlement. If a Taxpayer rejects the internal committee's decision or if the period specified in the Settlement Procedures lapses without reaching a settlement, the Taxpayer may file a case before the dispute committee against Authority's decision within 30 days from the date of being notified of the internal committee's decision or upon the lapse of the period specified in the Settlement Procedures without reaching a settlement. Such case shall not include issues settled with the internal committee. 2. Filing a grievance directly before the Adjudication Committee." Article 3 of Tax Dispute and Violation Committee Procedures has also stated the following: "ZATCA decisions shall be final and not disputed before any other agency in the following cases:



1. If the Taxpayer does not file an objection with ZATCA within sixty (60) days from the date of being notified of the decision. 2. If the Taxpayer does not file a grievance before the Adjudication Committee or does not request to refer the objection to the Internal Committee for settlement purposes within thirty (30) days from the date of being notified of ZATCA's decision to reject the objection, or after the lapse of ninety (90) days from the date of submitting the objection without a decision being issued. 3. If the Taxpayer does not file a grievance before the Adjudication Committee within thirty (30) days from the date of being notified of the decision issued by the Internal Committee regarding the settlement, or after the lapse of the period specified in the settlement rules without reaching a settlement. Since the Plaintiff did not provide proof for his objection to ZATCA's decision in accordance with Tax Dispute and Violation Committee Procedures, and since no objection rejection notice was found in the case file, the Department accepts Defendant's plea to dismiss Plaintiff's case based on formal Grounds.

Second: Regarding the objection to the fine for the filing error for the tax period of the third quarter of 2019, the Defendant argued that the claim should be dismissed procedurally due to Plaintiff's failure to file an objection to ZATCA's decision, in accordance with Articles (2) and (3) of the Rules of Procedure for the Committees for Adjudication of Tax Violations and Disputes. Since the Plaintiff did not provide evidence of having submitted an objection in accordance with the aforementioned rules, and the case file lacks any document indicating that the Defendant issued a notice rejecting such an objection, the Department finds Defendant's procedural defense valid, and thus rules Plaintiff's claim inadmissible.

Third: As for the fine for late payment, which resulted from Defendant's amendment to Plaintiff's VAT return for the third quarter of 2019, and since the fine arose from this amendment, it is governed by the same ruling. This is in accordance with Article (43) of the Value-Added Tax Law, which states: "Whoever does not pay the tax due within the period specified by the Regulations shall be fined an amount equaling (5%) of the value of unpaid tax, for each month or fraction of month for which the tax was not paid." Accordingly, and based on the above, and pursuant to the provisions of the Common Agreement, the Value-Added Tax Law and its Implementing Regulations, and the Rules of Procedure for the Committees for Adjudication of Tax Violations and Disputes, the Department, after deliberation, unanimously decided:

Decision:

First: In Form: Plaintiff's claim regarding the objection to the amendment of the "taxable local purchases under the standard rate" item for the tax period in question is inadmissible, due to the failure to submit an objection before ZATCA, in accordance with the provisions of Articles (2) and (3) of Tax Violations and Disputes Committee Procedures.

Second: Plaintiff's claim regarding the objection to the fine for the filing error for the tax period in question is inadmissible, due to the failure to submit an objection before ZATCA, in accordance with the provisions of Articles (2) and (3) of Tax Violations and Disputes Committee Procedures.

Third: Plaintiff's claim objecting to the late payment fine for the tax period in question is dismissed, as Defendant's decision was found to be valid.

This decision was made in presence of both parties, in accordance with provisions of Article (56) of Law of Procedure Before Sharia Courts.

The Department has set 30 days for receiving a copy of the decision. however, the Department may extend that time limit for another 30 days as it deems appropriate. Either party to the case may appeal against the decision within 30 days from the day following the date set for receipt of the decision, whereafter, the decision will be final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1744)
Delivered in Case No. (V-86449-2021)

Key words:

Value-Added Tax – Final Tax Assessment – Purchases Item – Late Payment fine – Statutory Period.

Abstract

The Plaintiff objected to the decision of Zakat, Tax, and Customs Authority regarding the final assessment for the tax period related to the fourth quarter of 2019, requesting the cancellation of the fine imposed. The Defendant argued for the exclusion of the purchases item due to Plaintiff's failure to submit supporting documents and invoices required to exercise the right of deduction. The legal provisions indicate that if a claim is submitted by an authorized party within the statutory period, it must be accepted procedurally. The Department found that the Plaintiff only submitted a list of purchases without providing invoices, bank statements, or any supporting documentation. Furthermore, the Plaintiff submitted some purchase invoices that did not meet the necessary requirements of a tax invoice to allow input tax deduction. Accordingly, and since the Plaintiff failed to submit the required documentation within the specified time frame, the Department ruled that the Defendant's action was valid. Regarding the late payment fine, it was found that the fine imposed on the Plaintiff resulted from Defendant's review of the VAT return for the fourth quarter of 2019, which revealed a discrepancy in the amount of tax due that had not been paid within the statutory deadline. Since the Plaintiff failed to pay the due tax on time, the Department considered the fine imposed by the Defendant to be valid. This Department ruled to The claim is accepted procedurally – the claim is rejected in all aspects – the decision is deemed final and enforceable.

Instruments:

- Article (1/48) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Article (43) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (49/8), (53), and (59/1) of [the Implementing Regulations of the Value-Added Tax Law, issued pursuant to Resolution No. \(3839\) dated 14/12/1438H by the Board of Directors of the General Authority of Zakat and Tax.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 22/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (65472) dated 23/12/1439 AH convened



to hear the above case. Given the case has fulfilled its prescribed legal requirements, it was filed with the General Secretariat on 15/12/2021 AD.

The facts of this case are summed up so as... National ID No. (...), in its capacity as owner of (...) Commercial Registration No. (...), submitted a statement of claim objecting to the decision of the Defendant regarding the final assessment for the tax period related to the fourth quarter of 2019, requesting the cancellation of the fine imposed on him. Upon presenting Plaintiff's statement of claim to Defendant's representative, a two-page written response was submitted, which the Department reviewed.

On Monday, 22/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its First session via video conference at 05:30 PM, in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the case, (...) appeared (Saudi National, under National ID No. (...)) attended in his capacity as the owner the plaintiff company, and Mr. (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .../10/1443 AH, and issued by the Deputy Governor for Legal Affairs. When asked about his claim, the Plaintiff responded in accordance with the contents of the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees and affirmed his adherence to what was stated therein. When asked for a response, Defendant's representative affirmed adherence to the contents of the written reply. When both parties were asked if they wished to add anything further, they both declared that they were satisfied with the submissions already made. Accordingly, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds



After reviewing the Case documents, and upon thorough examination, and in light of the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/6/1425 AH as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the Plaintiff seeks through his claim to annul the decision issued by the Defendant regarding the final assessment for the tax period related to the fourth quarter of 2019, and considering that this dispute falls within the jurisdiction of the Committee for the Adjudication of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and since the claim was submitted by an authorized party within the legally prescribed time frame, the Department must accept the claim procedurally.

On Merits: After reviewing the complete case file and the arguments it contains, the Department found that the dispute centers on Plaintiff's objection to the final reassessment for the tax period of the fourth quarter of 2019. The Defendant argued for the exclusion of the purchases item due to Plaintiff's failure to submit supporting documents and invoices necessary to exercise the right of deduction, based on Paragraph (1) of Article (48) of the Common VAT Agreement for the Gulf Cooperation Council (GCC) States. The Defendant also indicated that some invoices submitted by the Plaintiff did not meet the conditions required for tax invoices, in accordance with Article (53) of the Implementing Regulations of the Value-Added Tax Law, which sets out the requirements for valid tax invoices. The Plaintiff, in response to Defendant's memorandum, stated that during the audit procedures, ZATCA had requested information related to the VAT return, which was provided. However, there was a discrepancy in the purchases, and the auditor did not allow time to submit a detailed breakdown of those purchases. The Department found that the



Plaintiff merely submitted a list of purchases without providing invoices, bank statements, or any supporting documents for his claims. Furthermore, the Plaintiff failed to submit complete documentation proving his entitlement to deduct input tax, and some of the invoices submitted did not meet the requirements necessary to qualify for input tax deduction.

The VAT Law and its Implementing Regulations grant the Taxpayer the right to deduct input tax in subsequent tax periods, provided that the conditions for deduction are met, in accordance with Paragraph (8) of Article (49) of the Implementing Regulations of the VAT Law: “A taxable person may deduct input tax in a tax period subsequent to the period in which the supply occurred, provided that they are entitled to make the deduction under other provisions of these Regulations. Input tax may not be deducted in any period beyond five years from the calendar year in which the supply took place.”

Accordingly, and since the Plaintiff did not provide the necessary supporting documents within the specified period, the Department finds Defendant's action to be valid. Regarding the late payment fine: It is evident that the fine imposed on the Plaintiff was the result of Defendant's review of the VAT return for the fourth quarter of 2019, which revealed a discrepancy in the amount of tax due that was not paid within the statutory deadline. The statutory deadline for settling the due tax is the last day of the month following the end of the tax period, as stipulated in Paragraph (1) of Article (59) of the Implementing Regulations of the VAT Law: “A taxable person shall pay the tax due for the tax period no later than the last day of the month following the end of that tax period.” Since the Plaintiff failed to pay the tax due within the prescribed deadlines, the Department considers Defendant's action in imposing the fine to be valid, based on the provisions of Article (43) of the VAT Law. “Anyone who fails to pay the tax due within the period specified in the Regulations shall be subject to a fine equal to 5% of the unpaid tax for each month or part thereof in which the tax remains unpaid.” Based on the above, and in accordance with the provisions of the Common VAT Agreement, the VAT Law and its Implementing Regulations, and the Rules of Procedure for the Committees for the Resolution of Tax Violations and Disputes, the Department unanimously rules as follows:

Decision:

First: In Form: 1. Plaintiff's claim regarding the item of taxable local purchases under the standard rate for the tax period in question is dismissed, as Defendant's decision was found to be valid.

Second: Rejection of Plaintiff's claim regarding the objection to the late payment fine for the tax period in question, due to the validity of Defendant's decision.

This decision was issued in the presence of both parties. The Department has set a period of thirty (30) days for receiving a copy of the decision, which may be extended for an additional thirty (30) days at the Department's discretion. The parties may appeal the decision within thirty (30) days from the day following the specified date of receipt. If no appeal is submitted within this period, the decision becomes final and enforceable. The date on which the decision is made available on the electronic system of the General Secretariat shall be considered the official date of delivery.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1760)
Delivered in Case No. (V-85441-2021)

Key words:

Value-Added Tax – Late Registration fine – Exceeding the Mandatory Registration Threshold – Statutory Period – Claim Dismissal.

Abstract

The Plaintiff objected to the decision of Zakat, Tax, and Customs Authority regarding the imposition of a late registration fine, due to the Plaintiff exceeding the mandatory registration threshold and failing to register for VAT. The legal provisions indicate that if a claim is submitted by an authorized party within the legally prescribed time frame, it must be accepted procedurally. The Department found that: the Plaintiff had indeed exceeded the mandatory registration threshold. While the Plaintiff claimed not to have reached the required threshold, he failed to provide evidence supporting this claim. The Defendant, based on information obtained from a third party, proceeded to register the Plaintiff in accordance with Paragraph (1) of Article (6) of the Implementing Regulations of the VAT Law. Accordingly, the Department finds Defendant's action in imposing the late registration fine to be valid. Conclusion: The claim is accepted procedurally – Plaintiff's claim is dismissed as Defendant's decision to impose the late registration fine was found to be valid – the decision is deemed final and enforceable.

Instruments:

- Articles (1) and (50/1, 2, 3) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. 51 dated 03/05/1438 AH](#).
- Articles (2), (6/1), and (56/2) of [the Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Resolution No. \(3839\) dated 14/12/1438 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday, 09/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (65472) dated 23/12/1439 AH convened to hear the above case. Given the case has fulfilled its prescribed legal requirements, it was filed with the General Secretariat on 08/12/2021 AD.

The facts of this case are as follows: Mr. ..., National ID No., in his capacity as owner of ... Contracting Establishment, Feed Establishment, Commercial Registration No. (...), submitted a statement of claim objecting to the decision of the Defendant regarding the imposition of a late registration fine. Upon presenting Plaintiff's statement of claim to Defendant's representative, a two-page written response was submitted, which the Department reviewed.



On Tuesday, 09/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in in Jeddah convened a session remotely in accordance with the remote virtual litigation procedures pursuant to the Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. When the case was called, no representative of the Plaintiff was present, while... (a Saudi national), holder of National ID No. (...), appeared in his capacity as a representative of Zakat, Tax and Customs Authority under Authorization Letter No. (...) dated .../10/1443 AH, issued by the Deputy Governor for Legal Affairs. When asked about his response, Defendant's representative stated that he adheres to the contents of the reply memorandum submitted in the case file. For the validity of the case for adjudication is in accordance with the provisions of Article (20) of the Tax Dispute and Violation Committee Procedures. Accordingly, Department decided to adjourn the session in preparation for the issuance of the decision.

Grounds

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Decision No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) and the relevant laws and regulations.

In Form: Since the Plaintiff seeks through his claim to annul the decision issued by the Defendant regarding the imposition of a late registration fine, and considering that this dispute falls within the jurisdiction of the Committee for the Adjudication of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and since the claim was submitted by an authorized party within the legally prescribed period, the Department accepts the claim procedurally.

On Merits: After reviewing the entire case file and the arguments presented, the Department found that the dispute concerns the imposition of a late registration fine in the amount of SAR 10,000, due to the Plaintiff exceeding the mandatory registration threshold and failing to register in the VAT Law. Article (1) of the Common VAT Agreement for GCC States defines a taxable person as: "A person who independently engages in an economic activity for the purpose of generating income and is registered or required to be registered for VAT purposes in accordance with the provisions of this Agreement." Paragraph (1) of Article (50) of the same Agreement states: "A taxable person shall be required to register for the purposes of implementing this Agreement if: (a) they are resident in any Member State, and

(b) the value of their annual supplies in that Member State exceeds or is expected to exceed the mandatory registration threshold." Paragraph (2) of the same article sets that: "The mandatory registration threshold at SAR 375,000.", Furthermore, Article (3/1) of the VAT Law states: "A Taxable Person shall be obligated to register according to the Economic Activities carried out by the Taxable Person in the Kingdom and in accordance with the provisions stipulated in the Agreement". Article (2) of the Implementing Regulations provides: "For the purposes of the Law and these Regulations, a Taxable Person in the Kingdom is a Person who conducts an Economic Activity independently for generating income, and is registered for VAT in the Kingdom or who is required to register for VAT in the Kingdom under the Law or these Regulations". Article (3/1) of the Regulations further states: "Any person resident in the Kingdom and not registered with the Authority must, at the end of each month, calculate the value of their supplies over the previous twelve months in accordance with the requirements of the Agreement. If this value exceeds the mandatory registration threshold stipulated in the Agreement, the person must submit a registration application to the Authority within thirty (30) days from the end of that month in



accordance with Article 8 of these Regulations.” Additionally, Article (6) of the Regulations states: “If any person required to register fails to submit a registration application to the Authority in accordance with these Regulations, the Authority may register the person without a submitted application, and the registration shall be effective from the date specified in Articles (3) and (4) of these Regulations.” Article (56/2) also provides: “In addition to other rights set forth in this Article, the Authority may access, on a direct and ongoing basis, any information directly related to VAT that is held by a third party.”

The Plaintiff argued for the cancellation of the fine, claiming that he had not exceeded the mandatory registration threshold. However, the Agreement, the Law, and the Implementing Regulations clearly define the tax concept of economic activity, its scope, and the criteria for mandatory and voluntary registration without ambiguity. According to Defendant's memorandum, based on data obtained from (... Bank), it was determined that the Plaintiff did exceed the mandatory registration threshold. The Plaintiff, while denying this, failed to provide any evidence supporting his claim. The Defendant, relying on third-party data in accordance with Paragraph (2) of Article (56) of the Implementing Regulations of the Value Added Tax Law: "in addition to the other rights provided for in this Article, the Authority may access relevant information held by third parties directly from those parties including requiring direct access to records generally on an ongoing basis." Accordingly, the Defendant proceeded to register the Plaintiff based on Paragraph (1) of Article (6) of the Implementing Regulations of the Value-Added Tax Law. Therefore, the Department finds that Defendant's action in imposing the late registration fine is valid. Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Department, after unanimous deliberation, decided:

Decision:

- Plaintiffs case is dismissed due to the validity of Defendant's decision to impose the late registration fine subject of the dispute.

This decision was made in presence of both parties, in accordance with provisions of Article (56) of Law of Procedure Before Sharia Courts.

The Department has set thirty (30) days for receiving a copy of the decision, and may extend such period for another thirty (30) days, as it deems appropriate. This decision shall be deemed final and enforceable in accordance with provisions of Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1759)
Delivered in Case No. (V-80760-2021)

Key words:

Value-Added Tax – Statutory Period – Payment of Claimed Amount – Dispute Resolved

Abstract

The Plaintiff sought to oblige the Defendant to pay value-added tax and the associated fines. The legal provisions state that if a claim is submitted by an authorized party within the legally prescribed time frame, it must be accepted procedurally. The Department found that the Plaintiff had confirmed the amount claimed was paid by the Defendant. Accordingly, the Department concludes that the dispute in Plaintiff's case has been resolved. Conclusion: The claim is accepted procedurally, and the case is considered closed due to the settlement of the dispute. The decision is deemed final and enforceable.

Instruments:

- Articles (8/67) of [Income Tax Law amended by Royal Decree No. \(M/113\)](#).
- Article (15) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday, 21/08/2022, the First Department to adjudicate VAT violations and disputes in Jeddah convened. This Department was established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, formed pursuant to Royal Order No. (65474) dated 23/12/1439 AH, to consider the case referenced above. As the claim fulfilled the legal procedural requirements, it was filed with the General Secretariat of Tax Committees on 04/11/2021.

The facts of this case can be summarized as follows:

(...), National ID No. (...), in his capacity as an representative under Power of Attorney No. (...), submitted a statement of claim against Company, Commercial Registration No. (...), represented by Mr. (...), National ID No. (...), seeking to oblige the Defendant to pay value-added tax and the associated fines.

On Sunday, 21/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened a session remotely in accordance with the remote virtual litigation procedures pursuant to the Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. When called to the session, ... attended. Upon calling the parties to the case, (...) (a Saudi national), ID No. (...), appeared, while no representative of the Defendant was present. At the beginning of the session, and upon reviewing the documents submitted by the Plaintiff, and upon the Department's request for comments, the



Plaintiff stated that the amount subject to the claim had been paid by the Defendant. Accordingly, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds



After reviewing the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/10/1425 AH as amended, and its Implementing Regulations issued by virtue of the decision of the Minister of Finance No. (1535) dated 11/06/1425 AH as amended, and after reviewing the rules of tax committee procedures issued by Royal Order No. (26040) dated 21/04/1441 AH, and the relevant laws and regulations.

In Form: Whereas it is established from the case file that the Plaintiff submitted the claim through the electronic portal on 04/11/2021, and the due date of the claimed amount is 11/09/2018; accordingly, the claim was filed within the statutory period stipulated in Paragraph (8) of Article (67) of the Income Tax Law, as amended by Royal Decree No. (M/113). "Tax dispute cases may not be heard upon the lapse of five years from the maturity date of the amount subject of the claim, or the date of knowledge of the incident subject to the dispute, except in the presence of Grounds acceptable by the Committee", which means that the case must be accepted in form.

On Merits: Upon the Department's review of the case documents and the responses of both parties—after granting them sufficient time to present their arguments and submit any supporting evidence, it was established that the Plaintiff confirmed the amount subject to the claim had been paid by the Defendant. Accordingly, the Department concludes that the dispute in Plaintiff's case has been resolved.

Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Chamber, after unanimous deliberation, decided:

Decision:

- The case is considered closed due to settlement of the dispute subject of the claim.

This decision was made in presence of both parties. The Department has set 30 days for receiving a copy of the decision. However, the Department may extend that time limit for another 30 days as it deems appropriate. This decision is final and enforceable in accordance with Article (42) of the Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1762)
Delivered in Case No. (V-84899-2021)

Key words:

Value-Added Tax – Late Registration fine – Exceeding Mandatory Revenue Threshold – Statutory Period – Claim Dismissal

Abstract

The Plaintiff objected to the decision of Zakat, Tax, and Customs Authority regarding the imposition of a late registration fine, due to exceeding the mandatory registration threshold and failing to register in the VAT Law. The legal provisions state that if a claim is submitted by an authorized party within the legally prescribed period, it must be accepted procedurally. The Department found that the Plaintiff's revenues exceeded the mandatory threshold, based on his financial data with (...) Saudi Bank (Point of Sale statement). Accordingly, the Department concludes that Defendant's action in imposing the late registration fine was valid. The claim is accepted procedurally, Plaintiff's claim is dismissed, the decision is deemed final and enforceable.

Instruments:

- Articles (1) and (50/1, 2) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. 51 dated 03/05/1438 AH](#).
- Article (3/1) of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- Articles (2), (3/1), (6), and (56/2) of [the Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Resolution No. \(3839\) dated 14/12/1438 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday, 09/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (65472) dated 23/12/1439 AH convened to hear the above case. Given the case has fulfilled its prescribed legal requirements, it was filed with the General Secretariat on 03/12/2021 AD.

The facts of this case can be summarized as follows:

(...), National ID No. (...), in his capacity as the owner of (...) Establishment, Commercial Registration No. (...), submitted a statement of claim objecting to the decision of the Defendant regarding the imposition of a late registration fine. Upon presenting Plaintiff's statement of claim to Defendant's representative, a two-page written response was submitted, which the Department reviewed.

On Tuesday, 09/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened a session remotely in accordance with the remote virtual litigation



procedures pursuant to the Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. Upon calling the parties to the case, neither the Plaintiff nor a representative appeared..... (a Saudi national), holder of National ID No. (...), appeared in his capacity as a representative of Zakat, Tax and Customs Authority under Authorization Letter No. (...) dated .../10/1443 AH and issued by the Deputy Governor for Legal Affairs. When asked for his response, Defendant's representative stated that he adheres to the contents of the written reply submitted in the case file and attached the registration data obtained from (...) Bank. As the claim is ready for adjudication in accordance with the provisions of Article (20) of Tax Violations and Disputes Committee Procedures, the Department accordingly decided to adjourn the session in preparation for issuing the decision.

Grounds

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Decision No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) and the relevant laws and regulations.

In Form: Since the Plaintiff seeks through his claim to annul the decision issued by the Defendant regarding the imposition of a late registration fine, and considering that this dispute falls within the jurisdiction of the Committee for the Adjudication of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and since the claim was submitted by an authorized party within the legally prescribed period, the Department accepts the claim procedurally.

On Merits: After reviewing the complete case file and the arguments it contained, the Department found that the dispute centers on Defendant's imposition of a late registration fine in the amount of 10,000 SAR. This was due to the Plaintiff exceeding the mandatory registration threshold without registering in the Value-Added Tax (VAT) Law. Article (1) of the Common VAT Agreement for the Gulf Cooperation Council (GCC) States defines a taxable person as: "A person who independently engages in an economic activity for the purpose of generating income and is registered or required to be registered for VAT purposes in accordance with the provisions of this Agreement." Paragraph (1) of Article (50) of the same Agreement states: "A taxable person shall be required to register for the purposes of implementing this Agreement if: (a) residing in any of the Member States, and (b) the value of their annual supplies in that Member State exceeds or is expected to exceed the mandatory registration threshold." Paragraph (2) of the same Article states: "The mandatory registration threshold is SAR 375,000." Paragraph (1) of Article (3) of the Value-Added Tax Law states: "A Taxable Person shall be obligated to register according to the Economic Activities carried out by the Taxable Person in the Kingdom and in accordance with the provisions stipulated in the Agreement". Article (2) of the Implementing Regulations provides: "For the purposes of the Law and these Regulations, a Taxable Person in the Kingdom is a Person who conducts an Economic Activity independently for generating income, and is registered for VAT in the Kingdom or who is required to register for VAT in the Kingdom under the Law or these Regulations". Paragraph (1) of Article (3) states: "Any person residing in the Kingdom and not registered with the Authority must, at the end of each month, calculate the value of their supplies over the previous twelve months in accordance with the requirements set out in the Agreement. If this value exceeds the mandatory registration threshold specified in the Agreement, the person must submit a registration application to the Authority within thirty (30) days from the end of that month, in accordance with Article (8) of these Regulations." Article (6) further states: "If any person required to register fails to submit a registration application to the Authority in accordance



with these Regulations, the Authority may register that person without an application, and the registration shall become effective as of the date specified in Articles (3) and (4) of these Regulations.” Paragraph (2) of Article (56) states: “In addition to the other rights set out in this Article, the Authority may have direct and continuous access to any information directly related to the tax that is held by a third party.” Since it has been established by the Department that Plaintiff’s revenues exceeded the mandatory registration threshold, based on his financial data with (...) Saudi Bank (Point of Sale statement), the Department concludes that Defendant’s action in imposing the late registration fine is valid. Accordingly, Plaintiff’s claim is dismissed.

Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Chamber, after unanimous deliberation, decided:

Decision:

- Plaintiff’s case is dismissed due to the validity of Defendant’s decision to impose the late registration fine subject of the dispute.

This decision was made in presence of both parties, in accordance with provisions of Article (56) of Law of Procedure Before Sharia Courts.

The Department has set 30 days for receiving a copy of the decision. however, the Department may extend that time limit for another 30 days as it deems appropriate. Either party to the case may appeal against the decision within 30 days from the day following the date set for receipt of the decision, whereafter, the decision will be final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1763)
Delivered in Case No. (V-82699-2021)

Key words:

Value-Added Tax (VAT) – Late Registration Fine – Statutory Period.

Abstract

The Plaintiff objected to the decision of Zakat, Tax, and Customs Authority regarding the imposition of a late registration fine. The legal provisions indicate that if a claim is submitted by an authorized party within the legally prescribed period, it must be accepted procedurally. The Department found that: the dispute centers on Defendant's imposition of a late registration fine in the amount of SAR 10,000. Conclusion: The claim is accepted procedurally – Plaintiff's claim is dismissed as Defendant's decision to impose the late registration fine was found to be valid – the decision is deemed final and enforceable.

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday, 21/08/2022, the First Department to adjudicate VAT violations and disputes in Jeddah convened. This Department was established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, formed pursuant to Royal Order No. (65474) dated 23/12/1439 AH, to consider the case referenced above. As the claim fulfilled the legal procedural requirements, it was filed with the General Secretariat of Tax Committees on 17/11/2021.

The facts of this case can be summarized as follows:

(...), National ID No. (...), in his own capacity, submitted a statement of claim objecting to the decision of the Defendant regarding the imposition of a late registration fine. Upon presenting Plaintiff's statement of claim to Defendant's representative, a two-page written response was submitted, which the Department reviewed.

On Sunday, 17/07/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened its first session remotely in accordance with the remote virtual litigation procedures pursuant to the Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. Upon calling the parties to the case, the Plaintiff appeared in person, (...) (a Saudi national), ID No. (...), and (...) also appeared (a Saudi national), holder of National ID No. (...), appeared in his capacity as a representative of Zakat, Tax and Customs Authority under Authorization Letter No. (...) Dated .../10/1443 AH and issued by the Deputy Governor for Legal Affairs. When asked about his claim, the Plaintiff responded in accordance with the contents of the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming his adherence to it. He also requested clarification on the reason for his registration in the VAT Law despite not being eligible for registration. When Defendant's representative was asked for his response, he stated that he adheres to the contents of the written reply submitted in the case file and requested that the claim be



dismissed procedurally. Upon reviewing the case file, the Department decided to merge the procedural defense with the substantive matter and requested Defendant's representative to provide the reasons for the imposed fines and the basis for registering the Plaintiff in the VAT Law. Accordingly, the Department decided to adjourn the session to 21/08/2022.

On Sunday, 21/08/2022, the Second Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened a session remotely in accordance with the remote virtual litigation procedures pursuant to the Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. Upon calling the parties to the case, the Plaintiff appeared in person, (...) (a Saudi national), ID No. (...), and (...) also appeared (a Saudi national), holder of National ID No. (...), appeared in his capacity as a representative of Zakat, Tax and Customs Authority under Authorization Letter No. (...) dated 18/10/1443 AH and issued by the Deputy Governor for Legal Affairs. At the beginning of the session, the Plaintiff limited his claim to objecting to the late registration fine subject of the case. When asked for his response, Defendant's representative submitted a document containing details of Plaintiff's real estate sales, issued by the Ministry of Justice. Accordingly, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Decision No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) and the relevant laws and regulations.

In Form: Since the Plaintiff seeks through his claim to annul the decision issued by the Defendant regarding the imposition of a late registration fine, and given that this dispute falls within the jurisdiction of the Committee for Adjudication of Income Tax Violations and Disputes pursuant to Royal Decree No. (26040) dated 21/04/1441 AH, and since the Case was filed by an authorized party and within the prescribed statutory period, it is incumbent upon this Department to accept the Case in form.

On Merits: After reviewing the complete case file and the arguments it contained, the Department found that the dispute centers on Defendant's imposition of a late registration fine in the amount of 10,000 SAR, ... Based on the above Grounds, and based on the Common VAT Agreement, VAT Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:

Decision:

- Plaintiffs case is dismissed due to the validity of Defendant's decision to impose the late registration fine subject of the dispute.

This decision was issued in the presence of both litigants.

The Department has set thirty (30) days for receiving a copy of the decision, and may extend such period for another thirty (30) days, as it deems appropriate. This decision shall be deemed final and enforceable in accordance with provisions of Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1518)
Delivered in Case No. (V-80507-2021)

Key words:

Value-Added Tax – Amounts Not Subject to VAT – Filing Error fine – Late Payment fine – Exclusion of VAT-Taxable Sales – Statutory Period – Claim Dismissal

Abstract

The Plaintiff requested the cancellation of the decision issued by Zakat, Tax, and Customs Authority regarding the final assessment for the tax period related to the first quarter of 2020. ZATCA had requested the Plaintiff to clarify the value of revenues deposited into her account, but she did not respond. As no justification was provided for those deposits, ZATCA subjected them to VAT. The legal provisions state that if a claim is submitted by an authorized party within the legally prescribed period, it must be accepted procedurally. The Department found that, upon reviewing Plaintiff's statement of claim, which referenced details of the amounts claimed to be non-taxable under VAT, and upon examining the supporting documents provided, there was no evidence proving the Plaintiff's claim that those amounts were not subject to VAT. Accordingly, the Department finds that Plaintiff's request to exclude VAT-taxable sales should be rejected. As for the fines related to the filing error and the late payment, and since the Department had already ruled in the first part of the case (regarding the final assessment for Q1 2020) in support of Defendant's action, and because related matters take the same legal status, the Department rules to reject Plaintiff's claim. Conclusion: The claim is accepted procedurally – Plaintiff's claim is dismissed in all aspects – the decision is deemed final and enforceable.

Instruments:

- Articles (26/1) and (42/1) of [the Value-Added Tax Law issued pursuant to Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (14) and (79/1, 3) of [the Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Decision No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday, 17/07/2022, the First Department to adjudicate VAT violations and disputes in Jeddah convened. This Department was established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, formed pursuant to Royal Order No. (65474) dated 23/12/1439 AH, to consider the case referenced above. As the claim fulfilled the legal procedural requirements, it was filed with the General Secretariat of Tax Committees on 07/11/2021.

The facts of this case are summed up so as... National ID No. (...), in his capacity as the legal representative of Company, Commercial Registration No. (...), pursuant to the Articles of Association, submitted a statement of claim objecting to the decision of the Defendant regarding



the final assessment for the tax period related to the first quarter of 2020. Upon presenting Plaintiff's statement of claim to Defendant's representative, the Defendant submitted a three-page written response. The Plaintiff also submitted a three-page reply memorandum. The Department reviewed both submissions.

On Sunday, 17/07/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened its first session remotely in accordance with the remote virtual litigation procedures pursuant to the Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. Upon calling the parties to the case, (...) (a Saudi national), holding National ID No. (...), appeared as the representative of the Plaintiff pursuant to the Articles of Association, and (...) also appeared (a Saudi national), holder of National ID No. (...), appeared in his capacity as a representative of Zakat, Tax and Customs Authority under Authorization Letter No. (...) dated .../10/1443 AH. When asking Plaintiff about his claim, he responded in accordance with his statements mentioned in the statement of claim submitted to the General Secretariat of Zakat, Tax, and Customs Committees and affirmed all statements mentioned therein. When asking Defendant attorney about his Reply, he affirmed all statements mentioned therein. When asking both litigants if they had any other statements to add, they decided that they were satisfied with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

Having taken cognizance of documents included in Case file, and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) and the relevant laws and regulations.

In Form:

Since the Plaintiff seeks through its claim to annul the decision issued by the Defendant regarding the final assessment for the tax period related to the first quarter of 2020, and as this dispute falls within the jurisdiction of the Committee for the Adjudication of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and since the claim was submitted by an authorized party within the legally prescribed period, the Department must accept the claim procedurally.

On Merits:

After reviewing the complete case file and the arguments it contained, the Department found that the dispute centers on Plaintiff's objection to the reassessment made by the Authority of the tax return for the first quarter of 2020, whereby the value of standard-rated sales was adjusted to SAR 190,238 instead of SAR (0), according to the final assessment notice. Additionally, Paragraph (1) of Article (26) of the Value Added Tax (VAT) Law states: "The Authority may make a Tax assessment of a Taxable Person irrespective of a Tax Return filed by him". Article (14) of the Implementing Regulations of VAT Law states: "Without prejudice to Article Two of the Law and for the purposes of applying the Agreement and the Law in the Kingdom, VAT shall be imposed on all supplies of goods and services made by any taxable person within the Kingdom, or received by any taxable person in the Kingdom in cases where the reverse charge mechanism applies, and on imports of goods into the Kingdom." The Plaintiff objected to the reassessment made by ZATCA for the VAT return related to the first quarter of 2020, requesting the exclusion of non-taxable revenues in the amount of SAR 13,914, which consisted of interest-free loans provided to support company's operations and the refund of government fees. Upon reviewing ZATCA's



response memorandum, it was found that ZATCA had requested the Plaintiff to clarify the revenue amounts appearing in company's bank account; however, the Plaintiff did not respond. Therefore, due to the absence of justification for those deposits, ZATCA subjected them to VAT. Reviewing Plaintiff's statement of claim, she referred to the details of the amounts not subject to VAT, including an interest-free loan of SAR 3,150 from Mr. (...) and a refund of government fees amounting to SAR 10,791.21 under "Monshaat Initiative." However, no documents were submitted to support this claim. Upon reviewing the attached documents, the Department noted that the Plaintiff failed to submit any evidence proving her claim that the amounts were not subject to VAT, such as contracts with the mentioned parties or invoices related to those amounts to verify the validity of Plaintiff's claim. Based on the above, the Department finds that Plaintiff's request to exclude sales subject to VAT in the amount of SAR 13,914 should be rejected due to the lack of supporting documentation. Second: Regarding the imposition of the filing error fine: Since the Department, in the first part related to the final assessment for Q1 of 2020, upheld Defendant's action, and since related matters follow the same ruling, and based on Paragraph (1) of Article (42) of the VAT Law, which states: "Any person who submits a tax return to the Authority, or submits any document related to the tax due, and that results in an understatement of the tax due, shall be subject to a fine equal to 50% of the difference between the calculated and the actual tax due," the Department rules to reject Plaintiff's claim regarding the imposition of the filing error fine. Third: Imposition of the late payment fine: Since the Department, in the first part related to the final assessment for Q1 of 2020, upheld Defendant's action, and since related matters follow the same ruling, and based on Article (43) of the VAT Law, which states: "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid." Accordingly, the Department finds that Plaintiff's claim regarding the imposition of the late payment fine should be rejected.

Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Department, after unanimous deliberation, decided:

Decision:

First: In Form: Plaintiff's claim regarding the standard-rated local sales item for the tax period in question is rejected, as Defendant's decision was found to be valid.

Second: Plaintiff's claim regarding the objection to the filing error fine for the tax period in question is rejected, as Defendant's decision was found to be valid.

Third: Plaintiff's claim regarding the objection to the late payment fine for the tax period in question is rejected, as Defendant's decision was found to be valid.

This decision is issued in the presence of both Parties. The Department has set a period of thirty days for the receipt of a copy of the decision, with the option to extend the delivery period by an additional thirty days at its discretion. The Parties have the right to appeal within thirty days from the day following the specified date of receipt. If no objection is filed within this period, the decision becomes final and enforceable upon the expiration of this timeframe. The date on which the decision is made available on General Secretariat's electronic system shall be considered the official date of delivery.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1739)
Delivered in Case No. (V-84155-2021)

Key words:

Value-Added Tax – Other Compensation – Tax Amount Under Dispute – Compensation for Delay in Payment – Absence of Defendant Despite Legal Notification Indicates Waiver of Right to Respond – Statutory Period – Person Legally Obligated to Remit Tax Amount

Abstract

The Plaintiff requested that the Defendant be ordered to pay an amount of SAR 7,500.00, representing value-added tax and other compensations. Legal provisions state that if a claim is submitted by an authorized party within the statutory time limit, it must be accepted procedurally. The Department found that: the Plaintiff submitted all supporting documents proving his right to claim the VAT amount in question. The Defendant failed to attend the sessions despite being properly notified and did not submit any response to the claim, which the Department considers a waiver of Defendant's right to respond. Accordingly, the Department concluded that the Plaintiff is entitled to claim the VAT amount related to the supply in question, as it was established that the Plaintiff had remitted the tax amount to ZATCA. Regarding Plaintiff's additional requests for compensation due to the delay in payment and litigation expenses, the Department finds that the Plaintiff is not entitled to these claims, as he is the person legally obligated to remit the VAT amount to ZATCA. Conclusion: Plaintiff's claim is accepted for the amount of SAR 7,500.00, representing the VAT due on the supply in question. All other requests are dismissed. The decision is deemed final and enforceable.

Instruments:

- Article (30) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 08/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, established under the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, and constituted pursuant to Royal Decree No. (65474) dated 23/12/1439 AH convened to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of the Tax Committees on 28/11/2022.

On Monday, 08/08/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its First session remotely in accordance with the remote virtual litigation procedures; pursuant to the provisions of Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) and dated 21/04/1441 AH. When



calling both litigants, Mr., (Saudi national) holding National ID No. (...) appeared under POA No. (...) in his capacity as Plaintiff's representative, and with no appearance by the Defendant or anyone on their behalf, and at the beginning of the session, after the Department reviewed the case file, and as the claim is ready for adjudication in accordance with the provisions of Article (20) Tax Violations and Disputes Committee Procedures, the Department accordingly decided to adjourn the session in preparation for issuing the decision.

Grounds

After reviewing Case documents, and upon thorough examination, and in light of the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/6/1425 AH as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Disputes and Violations Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the Plaintiff seeks through his claim to compel the Defendant to pay the value-added tax amount, and as this dispute falls within the jurisdiction of the Committee for the Adjudication of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and since the claim was submitted by an authorized party within the legally prescribed time frame, the Department must accept the claim in form.

On Merits: After reviewing the full case file and the arguments presented, Plaintiff's claim centers on requesting the Defendant to pay VAT in the amount of SAR 7,500 on a supply representing legal services and consultancy valued at SAR 50,000, based on a contract to handle the division of an estate by Department order on behalf of the heirs of Mr. (...) before the Personal Status Department in Jeddah, under case number (...) dated 13/02/1438H (corresponding to 13/11/2016). The Plaintiff asserts that the supply became due upon the issuance of the ruling by the Eighth Department of the Personal Status Department in Jeddah, under judgment number (...) dated 14/10/1442 AH (corresponding to 26/05/2021). In principle, the obligation to bear VAT as an indirect tax on received goods and services lies with the client or recipient, unless otherwise provided under specific exceptions outlined in Article (30) of the Common VAT Agreement for GCC States, which identifies cases where the recipient may be exempt from paying VAT. The Department found that the Plaintiff submitted all supporting documentation proving his right to claim the VAT amount in dispute. Moreover, the Defendant failed to attend the sessions despite being duly notified and did not provide any response to the claim, which the Department considers a waiver of the right to respond. Accordingly, the Department concludes that the Plaintiff is entitled to claim the VAT amount related to the supply in question, as it was confirmed that the VAT had been remitted to ZATCA. As for Plaintiff's requests related to compensation for the delay in payment and legal fees, the Department finds that these claims are unsubstantiated, as the Plaintiff is the party legally obligated to remit the VAT amount to ZATCA.

Based on the foregoing and according to the Common VAT Agreement, Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:

Decision:

First: In Form: The claim filed by the Plaintiff/ Company for Legal Advocacy and Consultancy, Commercial Registration No. (...), is accepted, and the Defendant, (...), National ID No. is ordered to pay the amount of SAR 7,500.00 (seven thousand five hundred riyals), representing the value-added tax due on the supply subject of the claim.

Second: All other requests are rejected.



This decision was issued in presence of both litigants in accordance with Article (21) of Tax Dispute and Violation Committee Procedures. The Department has set a period of 30 days for receiving a copy of the decision, and this period may extend to another 30 days as it deems appropriate. This decision is final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1687)
Delivered in Case No. (V-70961-2021)

Key words:

Value-Added Tax – Late Payment fine – fine for Submitting an Incorrect Return or Amending a Return – Statutory Period

Abstract

The Plaintiff requested the cancellation of the decision issued by Zakat, Tax, and Customs Authority regarding the final assessment for the tax period of the first quarter of 2021. Legal provisions state that if a claim is submitted by an authorized party within the legally prescribed time frame, it must be accepted procedurally. In its response memorandum, the Defendant (ZATCA) stated that it excluded the purchases item on the Grounds that it was not eligible for deduction, as the purchases related to supplies not subject to the VAT Law. The Department found that the dispute centers on the following: First: In Form: The final assessment for the tax period related to the first quarter of 2021, which involved purchases related to supplies not subject to VAT. The Plaintiff did not provide the required documentation. It was found that Plaintiff's reported purchases were for a plot of land acquired for development and resale, which confirmed the validity of Defendant's action. Therefore, the Department concluded to reject Plaintiff's claim. Second: Imposition of the fine for filing an incorrect return for the same tax period (Q1 2021). Regarding both the fine for filing error and the late payment fine, the Department found that the Plaintiff owed VAT in the amount of SAR 2,700, as a result of the adjustment, thus confirming the validity of the imposed fines. This Department ruled to the claim is accepted procedurally – Plaintiff's claim is rejected in all aspects – the decision is deemed final and enforceable.

Instruments:

- Article (1/44) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. M/51 dated 05/03/1438 AH.](#)
- Articles (22/1) and (42/1) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (30/1) and (9/49) of [the Implementing Regulations of Value Added Tax Law issued by Decision of the Board of Directors of the General Authority of Zakat and Income \(currently ZATCA\) No. \(3839\) dated 14/12/1438 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Thursday, 28/07/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (65472) dated 23/12/1439 AH convened



to hear the above case. Given the case has fulfilled its prescribed legal requirements, it was filed with the General Secretariat of Tax Committees on 15/09/2021 AD.

The facts of this case are summed up in that Mr....., National ID No..... In his personal capacity, he submitted a statement of claim objecting to the decision issued by the Defendant regarding the final assessment for the tax period of the first quarter of 2021. Upon presenting Plaintiff's statement of claim to Defendant's representative, a two-page written response was submitted, which the Department reviewed.

On Wednesday, 08/06/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its First session remotely in accordance with the remote virtual litigation procedures; pursuant to the provisions of Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) and dated 21/04/1441 AH. When calling both litigants, the Plaintiff., Saudi National, appeared on behalf of himself, under National ID No. (...), and Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .../10/1443 AH and issued by the Deputy Governor for Legal Affairs. When asked about his claim, the Plaintiff responded in accordance with the contents of the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming his adherence to it. When asked for his response, Defendant's representative affirmed adherence to the contents of the written reply and additionally requested a grace period to verify the accuracy of Plaintiff's statements, which he claimed contained incorrect information. Accordingly, it was decided to postpone the hearing to 28/07/2022.

On Thursday, 28/07/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its Second session remotely in accordance with the remote virtual litigation procedures; pursuant to the provisions of Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) and dated 21/04/1441 AH. When calling both litigants, the Plaintiff., Saudi National, appeared on behalf of himself, under National ID No. (...), and Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .../10/1443 AH and issued by the Deputy Governor for Legal Affairs. At the beginning of the session, and upon Department's review of the submission made by Defendant's representative, it was stated that no contact had been made with the Defendant from Plaintiff's number during the specified period. Accordingly, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

After reviewing Case documents, and upon thorough examination, and in light of the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/6/1425 AH as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Disputes and Violations Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the Plaintiff seeks through his claim to annul the decision issued by the Defendant regarding the final assessment for the tax period of the first quarter of 2021, and as this dispute falls within the jurisdiction of the Committee for the Adjudication of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441H, and since the claim was submitted by an authorized party within the legally prescribed period, the Department must accept the claim in form.

On Merits: After reviewing the complete case file and the arguments presented, the Department found that the dispute centers on:



First: In Form: The final assessment for the tax period related to the first quarter of 2021, which involves purchases related to supplies not subject to VAT, for which the Plaintiff did not submit the required documentation. Paragraph (1) of Article (44) of the Common VAT Agreement for the Gulf Cooperation Council (GCC) States reads as follows: “A taxable person shall have the right to deduct from the amount of VAT due and payable in a Member State the deductible tax amount incurred in that State in the course of making taxable supplies.” Paragraph (1) of Article (22) of the Value Added Tax Law states: “The regulations shall specify the following: 1. The conditions and rules for tax deduction, the methods for calculating the deduction ratio, and the conditions under which the input VAT amount shall be considered as zero.” Paragraph (1) of Article (30) of the Implementing Regulations of the VAT Law provides: “Subject to the other express provisions of these Regulations, the following Supplies shall exempt from VAT: (a) The supply of real estate, whether residential, commercial, agricultural, or undeveloped or developed land, by way of transfer of ownership or disposal by the owner, (b) The supply of residential property by way of lease or license.” Paragraph (9) of Article (49) of the Implementing Regulations of the Value Added Tax Law states: “9. Where a taxable person has incurred input tax on the purchase, construction, renovation, or modification of a property for the purpose of making a taxable supply, and the property supply is exempt pursuant to Paragraph (1)(a) of Article 30 of these Regulations, the person may deduct that input tax, subject to Paragraph (7) of this Article, and in accordance with the following conditions: a. The supplies relating to the purchase, construction, renovation, or modification of the property must have been received prior to the effective date of the exemption, and: b. The input VAT related to the supplies mentioned in this paragraph must be deducted in the tax return submitted to ZATCA for any tax period, provided that the deduction is made no later than the tax period ending on December 31, 2020. c. Proportional deduction must be applied where it is not possible to attribute the entire incurred VAT to the property that was supplied, or in cases where the incurred VAT is included in a tax invoice for a continuous supply that was partially made on or before the effective date of the exemption, and partially afterward.” Upon review of the case facts, and considering that the Defendant (ZATCA) indicated in its written reply that it had excluded the purchases item on the Grounds that it was not eligible for deduction, as the supplies were not subject to the provisions of the VAT Law, based on Paragraph (9) of Article (49) of the Implementing Regulations of the VAT Law, the Plaintiff merely stated that under the previous version of the VAT regulations, citizens had the right to request a refund or deduct VAT paid on land purchases from upcoming returns. However, upon reviewing the applicable provisions of the Agreement, the VAT Law, and the Regulations mentioned above, and after examining the case attachments, it was found that Plaintiff's purchases, as per his own submission, consisted of a plot of land purchased for development and resale, as documented in invoice No. (41) dated 20/08/2020, with a net amount of SAR 2,948,400.00 and VAT of SAR 442,260.00 at the 15% rate from the supplier, (...) Company. The Plaintiff deducted part of the invoice in the Q3 2020 VAT return in the amount of SAR 1,164,307.53 with VAT of SAR 174,646.13, and then deducted the remaining portion of the invoice in the Q1 2021 return in the amount of SAR 1,784,092.47 with VAT of SAR 267,613.87. This is in violation of Paragraph (9) of Article (49) of the Regulations, which set a deadline for input VAT deduction related to real estate supplies that later became exempt under Paragraph (1) of Article (30), provided the supplies were received before the effective date of the exemption, which is 04/10/2020, according to Royal Decree No. A/84, issued on 14/02/1442 AH (01/10/2020). The final deadline for deducting such VAT was the tax period ending on 31/12/2020. Therefore, the Department finds that the Defendant's action was legally correct, and accordingly concludes to reject Plaintiff's claim.

Second: Imposition of the filing error fine for the tax period related to the first quarter of 2021, is based on Paragraph (1) of Article (42) of the Value-Added Tax Law, which states: “Any person who submits an incorrect tax return to the Authority, or amends a tax return after submission, or submits any document to ZATCA related to the tax due and as a result causes an understatement



of the amount of tax due, shall be subject to a fine equal to 50% of the difference between the calculated tax and the actual tax due.” Since it was established that the Plaintiff owed VAT in the amount of SAR 2,700 to the Defendant as a result of the amendment, this confirms the validity of the fine imposed in accordance with Paragraph (1) of Article (42) of the Value-Added Tax Law. Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department unanimously decided after deliberation:

Decision:

First: In Form: Dismissal of Plaintiff's claim regarding the domestic purchases subject to the standard VAT rate for the tax period in question, as Defendant's decision was found to be valid.

Second: Plaintiff's claim objecting to the filing error fine for the tax period in question is dismissed, as Defendant's decision was found to be valid.

This decision was issued in the presence of both litigants, and the Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following the specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

Appeal Committee:

Appeal Committee ruled to uphold Department decision.



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1464)
Delivered in Case No. (V-40900-2021)

Key words:

Value-Added Tax – Sales Subject to 5% Rate – Supply Without Consideration – Supply of Services Without Consideration is a Deemed Supply Subject to VAT – Statutory Period – Fair Market Value Prevails Over Actual Payment – Claim Dismissed

Abstract

The Plaintiff sought to cancel the decision of Zakat, Tax, and Customs Authority regarding the reassessment for the tax period related to the fourth quarter of 2018 and the associated fines. ZATCA responded as follows: Regarding First Item: “Sales subject to 5% VAT in the amount of SAR 2,554,558,” where the dispute concerns the final assessment for Q4 2018, which resulted in subjecting the disputed amount to the sales category. Regarding the supply without consideration – donations (SAR 42,016): The Defendant subjected the amount of SAR 42,016 to VAT based on Article (14) of the Implementing Regulations. The Plaintiff argued that the invoice does not represent actual sales but rather supplies given as donations and charitable contributions without consideration. However, the supply of goods or services without consideration is considered a deemed supply, unless it falls under the exceptions listed in Article (15) of the Implementing Regulations of the VAT Law. The supply of goods is deemed a taxable supply pursuant to Article (8)(a/1) of the GCC Common VAT Agreement, and the supply of services without consideration is deemed a taxable supply under Article (8)(b/2). These are only exempt if the Taxpayer has not deducted input tax related to the supplied goods or services, as stated in Article (8)(3) of the Agreement, something the Plaintiff did not address or prove. According to the legal provisions, if the claim is submitted by an authorized party within the prescribed time, it must be accepted procedurally. The Department found the following: The Plaintiff did not provide evidence of the amounts paid, the type of sales, or the parties involved. Additionally, no account statements were submitted for the disputed tax period to show the flow of these amounts in support of the claim or to prove that they were intra-GCC sales and therefore outside the scope of VAT. Regarding the debit note in the amount of SAR 231,525:

The Plaintiff claimed it was a debit note issued to the Saudi Standards, Metrology and Quality Organization (SASO), and that it would be reported once payment was received. Upon review, the Department found that the value of the taxable supply had been adjusted, which necessitates amending the output tax previously reported to reflect the tax due based on the revised consideration. Since the adjustment resulted in an increase in output VAT owed by the supplier, it must be reported in the tax return for the period in which the adjustment occurred. The Plaintiff failed to do this and instead stated that she would report it upon receipt of payment. However, since the supply was made and a debit note was issued to amend the value of that supply, resulting in additional VAT due, as confirmed in Plaintiff's accounts, this VAT becomes due, and the relevant period must be adjusted accordingly to reflect the difference. Regarding zero-rated contracts, the dispute is limited to the following two contracts: A. The contract with the client –



The Private Affairs of the Custodian of the Two Holy Mosques – in the amount of SAR 219,952. The Plaintiff claims that the revenue from this contract was reported as zero-rated sales in the VAT return, stating that it represents governmental supplies. The contract was allegedly concluded before 30/05/2017, and the supply was executed during 2017, although the invoice was issued in 2018. Upon reviewing the submitted documents, the Department notes that the Plaintiff claims the contract was executed before 01/01/2018, and therefore, should not be subject to VAT. However, this depends on the actual date of supply, which falls after the VAT Law came into effect, something the Plaintiff failed to prove otherwise. Furthermore, the Plaintiff did not provide any evidence such as a final approved payment certificate from the client or other documentation to confirm that delivery and completion occurred prior to the effective date of the VAT Law. Any supply related to the contract occurring after the VAT implementation date with a government entity acting in its sovereign capacity is not considered an economic activity. B. The contract with client (...) in the amount of SAR 112,414. The Plaintiff claims that the revenue from this contract was also reported as zero-rated in the VAT return and that the contract was concluded before 30/05/2017. However, the Plaintiff did not deny that the contract was amended after 30/05/2017, nor did she submit the contract in question to verify the date or confirm that VAT was not referenced therein. Additionally, the Plaintiff did not provide a written certificate issued by the client proving the client's entitlement to fully deduct input VAT on the supply, and therefore failed to meet the conditions set forth in Paragraph (3) of Article (79) of the VAT Implementing Regulations regarding the contract in dispute. Accordingly, the revenue from this contract cannot be treated as zero-rated sales. Second: Regarding the imposition of the filing error fine, and since the Department concluded in the first item, related to the final assessment for the tax period of the fourth quarter of 2018, to uphold the action taken by the Defendant, and as related matters follow the same ruling, the Department finds that Plaintiff's claim regarding the filing error fine should be rejected. Third: Regarding the imposition of the late payment fine, and since the Department concluded in the first item related to the final assessment for the tax period of the fourth quarter of 2018 to uphold Defendant's action, and as related matters follow the same ruling, the Department finds that Plaintiff's claim regarding the late payment fine should be rejected. The claim is accepted in form, and dismissed on the merits – The decision is deemed final and enforceable.

Instruments:

- Articles (8/A/1) and (23/1) of [the Common VAT Agreement of GCC States issued by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Articles (2) and (21/3) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (9/5), (14), (15/9), (18/1), (37/3), (38/1), (40/C/1, 3, 4), and Articles (79/2, 3) of [the Implementing Regulations of the Value-Added Tax Law, issued pursuant to Decision No. \(3839\) dated 14/12/1438 AH by the Board of Directors of the General Authority of Zakat and Tax.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 27/06/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (65472) dated 23/12/1439 AH convened to hear the above case. Given the case has fulfilled its prescribed legal requirements, it was filed with the General Secretariat on 09/03/2021 AD.



The facts of this case are summed up so as... Resident Permit No. (...), in his capacity as the legal representative of Company for Trading and Contracting, Commercial Registration No. (...), pursuant to the Articles of Association, submitted a statement of claim objecting to the decision of the Defendant regarding the reassessment for the tax period related to the fourth quarter of 2018 and the associated fines. Upon presenting Plaintiff's statement of claim to Defendant's representative, a five-page written response was submitted, which the Department reviewed.

On Monday, 28/03/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened a session remotely in accordance with the remote virtual litigation procedures pursuant to the Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. Upon calling the parties to the case, Ms./... (Saudi National, under National ID No.) appeared in her capacity as the authorized representative of the Plaintiff company under Power of Attorney No. (...), and Mr./... also appeared (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated ... / ... issued by Deputy Governor for Legal Affairs. When asked about the claim, Plaintiff's representative responded in accordance with the contents of the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees and affirmed her adherence to it. When Defendant's representative was asked for his response, he insisted on the procedural defense previously submitted. In the event that the Department decided to overrule the procedural defense, he requested additional time to submit a response on the merits. Accordingly, the Department decided to merge the procedural and substantive aspects of the case and adjourn the hearing to 16/04/2021.

On Saturday, 16/04/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened its second session remotely in accordance with the remote virtual litigation procedures pursuant to the Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. Upon calling the parties to the case, ... appeared (Saudi National, under National ID No.) in her capacity as Plaintiff Company's Attorney, by POA No. (...), and (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated ... / ... issued by Deputy Governor for Legal Affairs. At the beginning of the session, and upon the Department's review of the documents submitted by Defendant's representative, the Department listened to the response of Plaintiff's representative. The Department then requested Defendant's representative to clarify the accounting basis upon which the amounts in question were subjected to the standard VAT rate. He requested additional time to respond. Accordingly, the Department decided to adjourn the session to 27/06/2022.

On Monday, 27/06/2022, The First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its third session remotely in accordance with the remote video litigation procedures pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. Having called the parties to the case, ..., a Saudi national, holder of National ID No. (...) appeared in her capacity as the authorized representative of the Plaintiff company under Power of Attorney No. (...), and Mr./... (a Saudi national), holding National ID No. (...), also appeared in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated ... / ... issued by Deputy Governor for Legal Affairs. At the beginning of the session, when both parties were asked if they wished to add anything further, they stated that they were satisfied with the submissions already made. Accordingly, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

After reviewing Case documents, and upon thorough examination, and in light of the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated



11/6/1425 AH as amended, Value Added Tax Law promulgated by Royal Decree No. (M/13) dated 2/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Disputes and Violations Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the Plaintiff seeks through her claim to annul the decision issued by the Defendant regarding the final assessment for the tax period related to the fourth quarter of 2018, and as this dispute falls within the jurisdiction of the Committee for Adjudication of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and since the claim was submitted by an authorized party within the legally prescribed period, the Department must accept the claim in form.

On Merits: After reviewing the full case file and the defenses contained therein, the Department finds that the dispute centers on:

First: In Form: The sales subject to the 5% rate in the amount of SAR 2,554,558; the dispute centers on the final assessment for the fourth quarter of 2018, which resulted in subjecting the disputed amount to the sales category. Whereas Article (2) of the Value Added Tax Law stipulates: "Tax shall be imposed on the import and supply of Goods and Services in accordance with the provisions stipulated in the Agreement, the Law and the Regulations.". Article (14) of the Implementing Regulations of the Value Added Tax Law provides that: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom". As stated in Paragraph (A/1) of Article (8) of the Common VAT Agreement for the Gulf Cooperation Council (GCC) States titled "Deemed Supply": "1. The taxable person is deemed to have made a supply of goods when disposing of goods that form part of their assets in any of the following cases: (a) The transfer of goods, whether for consideration or without, for purposes other than economic activity." Also, Paragraphs (B/2,3) of Article (8) of the Common VAT Agreement for the GCC States, titled "Deemed Supply", state: "2. The taxable person is deemed to have made a supply of services in either of the following cases: (a) The supply of services without consideration. 3. The provisions of this article apply if the taxable person has previously deducted input tax related to the goods and services mentioned in this article." Paragraph (9) of Article (15) of the Implementing Regulations of the Value-Added Tax Law states: "A supply is not considered a deemed supply in cases where a taxable person supplies goods or services without consideration, if that person has previously incurred input tax on direct costs related to the purchase, production, or supply of those goods or services, without deducting that tax in their periodic VAT returns." Paragraph (1) of Article (18) of the Implementing Regulations of the Value-Added Tax Law states: "Without prejudice to Article Sixteen of these Regulations, except for deemed supplies, goods and services supplied by a legal person to themselves are outside the scope of taxation." Paragraph (3) of Article (37) of the Implementing Regulations of the Value-Added Tax Law states: "Employees, the employer, their partners, and partners in any partnership are considered related persons for the purposes of the Law," as stated in paragraph (1) of Article (38) of the Implementing Regulations of the VAT Law: "The fair market value shall be considered, rather than the supply value paid, when all of the following conditions are met: A. When the supply occurs between related parties as defined in the agreement or these regulations, B. The supply value is less than the fair market value, C. If the customer is not entitled to any full input tax deduction with regard to the supply." Article (1) of Article (23) of the Common VAT Agreement of the Gulf Cooperation Council (GCC) states: "(1) The tax is due on the date of the supply of goods or services, or on the date of issuance of the tax invoice, or on the date of receiving the consideration, either partially or in full, whichever comes first." Paragraphs (1/c), (3), and (4) of Article (40) of the Implementing



Regulations of the VAT Law state: "1. The value of the taxable supply is adjusted when it is related to the taxable person in the following cases: C. If the supply value was agreed upon in advance, and then modified for any reason, including offering an additional discount after the sale has been completed. 3. In cases where an adjustment to the value of goods or services is required, the taxable person acting as the supplier must adjust the output tax that was previously declared so that it reflects the tax calculated when the consideration changes. 4. Any adjustment that results in an increase in the output tax amount for the supplier, which was made in accordance with paragraph (3) of this article, must be made in the tax return for the tax period during which the event referred to in paragraph (1) of this article occurred." Paragraph (3) of Article (21) of the Value Added Tax Law states: "Regarding continuous supplies that are partially carried out before the effective date of the Law or before the registration date, and partially after this date, the tax is not due on the part carried out before the effective date or registration." Paragraphs (2) and (3) of Article (79) of the Implementing Regulations of the VAT Law state: "2. For the purposes of this article, the supply date shall be considered as occurring on or after the effective date of the Law in the following two cases: A- If the date of delivery of goods or their availability for receipt is on or after the effective date of the Law, B- If the date the services were fully rendered is on or after the effective date of the Law. "Any Supply of Goods or services made in respect of a contract which does not anticipate the application of VAT to the Supply may be treated as zero-rated by the Supplier until the earlier of the time the contract expires, is renewed or 31 December 2018 provided that: a. the contract was entered into before 30 May 2017; b. the Customer is entitled to deduct Input Tax in respect of the Supply of Goods or services in full or is an Eligible Person entitled to a refund of the Tax. C- The customer provides a written certificate to the supplier confirming the full input tax deduction for the supply." Paragraph (5) of Article (9) of the Implementing Regulations of the VAT Law states: "Any activity performed by a government entity in its capacity as a public authority will not be considered an economic activity for the purposes of the Law and these regulations. However, the conduct of activities by a government entity that involves the supply of goods or services in a manner other than in its capacity as a public authority shall be considered economic activity." Regarding the supply without consideration – donations (42,016 Riyals): The Defendant subjected the amount of (42,016) Riyals based on Article 14 of the regulations, while the Plaintiff asserts that the invoice does not constitute actual sales but rather a supply in the form of donations and charitable acts without consideration. Since the supply of goods or services without consideration is deemed an assumed supply unless it falls under the exceptions specified in Article (15) of the Implementing Regulations of the VAT Law, the supply of goods is considered an assumed supply subject to tax according to paragraph (A/1) of Article (8) of the agreement. Additionally, the supply of services without consideration is also considered an assumed supply subject to tax according to paragraph (B/2) of Article (8) of the agreement. The Plaintiff's deduction of input tax related to these goods is an exception under paragraph (3) of Article (8) of the agreement, which the Plaintiff did not address or prove. Therefore, the Department finds that the sales are considered assumed supplies, and tax is due on them based on Article (14) of the Implementing Regulations of the VAT Law."

Regarding the internal supplies of the amount (50,725) Riyals, which were subjected to tax by the Defendant based on Article (14) of the regulations, the Plaintiff asserts that this amount includes 32,727 Riyals recorded in the aluminum factory as sales and not recorded as purchases in the commercial sector, and 17,998 Riyals recorded in the contracting sector as sales and not recorded as purchases in the aluminum factory. Therefore, they are internal intercompany sales within the company sector. Upon review, it was found that the Plaintiff did not provide proof of the amounts paid, the type of sales, or the parties involved. Additionally, no account statement for the disputed period was provided to show the movement of those amounts to substantiate the claim and prove that they were intercompany sales. As a result, these are considered taxable revenues under Article (14) of the regulations, and the objection regarding this item was rejected. Regarding the partner withdrawals amounting to (1,898,381) Riyals, which were subjected to tax by the Defendant based



on Article (14) of the regulations, the Plaintiff claims that these withdrawals were from the partners and considered as revenue, but not as actual sales since they were charged to the partner's current account. Upon review, it was found that the supply to the owners took place, and they are related persons according to paragraph (3) of Article (37) of the regulations. This means that the supply must be recorded at fair market value if the conditions outlined in paragraph (1) of Article (38) of the regulations are met, which the Plaintiff stated they had done. However, the supply is considered actual sales, and no exemption from tax liability for this type of supply was mentioned. Furthermore, the type of sales was not clarified, and the declaration regarding it is not linked to the receipt or settlement of the amount, as its due date is related to the date of supply of goods, the date of issuance of the invoice, or the date of payment, whichever is earlier, according to paragraph (1) of Article (23) of the agreement. Since the supply occurred, these amounts were recorded in the Plaintiff's accounts, which means tax is due, and thus it should be declared. Based on the above and the documents submitted, the Department supports the Defendant's decision to treat these as taxable revenues under Article (14) of the regulations and rejects the objection regarding this item. Regarding the debtor notice for the amount of (231,525) Riyals, the Plaintiff claims that it is a debtor notice issued to the Saudi Standards, Metrology and Quality Organization, and that it will be declared upon collection. Upon review, it was found that the value of the taxable supply was adjusted based on paragraph (1/c) of Article (40) of the regulations, which means that the Plaintiff should have made an adjustment to the output tax that was previously declared to reflect the tax calculated when the consideration changed, in accordance with paragraph (3) of Article (40) of the regulations. Since the adjustment resulted in an increase in the output tax amount for the supplier, it should have been made in the tax return for the tax period in which it occurred, which the Plaintiff did not do, as they stated they would declare it upon collection, which violates paragraph (4) of Article (40) of the regulations. The type of sales was not clear, but the declaration is not linked to the collection of the amount from the client; it is linked to its entitlement. Since the tax is due on the date of supply of goods, the date of issuance of the invoice, or the date of payment, whichever is earlier, according to paragraph (1) of Article (23) of the agreement, and since the supply occurred and a debtor notice was issued to adjust the supply value, this resulted in a higher due tax, which was recorded in the Plaintiff's accounts, indicating that tax is due. Therefore, the period related to this difference should be adjusted and settled, as previously stated. Based on the above and the documents provided, the Department supports Defendant's decision to treat these as taxable revenues under Article (14) of the regulations and rejects the objection regarding this item. Regarding the zero-rate contracts, the dispute is limited to the following two contracts: A- The contract with the client - The Private Affairs of the Custodian of the Two Holy Mosques for the amount of (219,952) Riyals; the Plaintiff claims that the revenue from this contract was included in the zero-rate sales in the tax return, as they represent government supplies. The contract was concluded before 30/05/2017, and the supply was completed in 2017, but the invoice was issued in 2018. Upon reviewing the documents provided, the Plaintiff claims that the contract was executed before 01/01/2018, and thus will not be subject to tax. However, this is related to the supply date, as it falls after the effective date of the Law in the cases outlined in paragraph (2) of Article (79) of the regulations, which the Plaintiff did not prove otherwise. Furthermore, the Plaintiff did not provide evidence that the execution and supply were completed before the effective date of the Law by submitting a final certified statement from their client to prove the date or another document proving that the work was delivered and completed before the Law's effective date. Any supply related to this contract after the effective date of the Law with the Plaintiff's client, who is a government entity in its capacity as a public authority, will not be considered an economic activity under paragraph (5) of Article (9) of the regulations. This means the client does not have the right to deduct, and thus the conditions in paragraph (3) of Article (79) of the regulations do not apply since the client is not registered for VAT. Based on the above and the documents provided, the Department supports Defendant's decision and rejects the claim. B- The contract with the client for the amount of (112,414) Riyals,



the Plaintiff claims that the revenue from this contract was included in the zero-rate sales in the tax return. The contract was concluded before 30/05/2017, and the Plaintiff did not deny modifying the contract after 30/05/2017. Furthermore, the disputed contract was not provided for verification of its date and whether it mentioned tax, and the written certificate from the client, which would prove the client's right to deduct full input tax on the supply, was not provided. This does not prove that the conditions in paragraph (3) of Article (79) of the Implementing Regulations apply to the disputed contract, and therefore it is not entitled to consider the revenue from it as zero-rated sales. Based on the above and the documents provided, the Department supports Defendant's decision and rejects the claim.

Second: Second: The imposition of a fine for errors in the declaration; the Department concluded in the first item related to the final assessment for the tax period of the fourth quarter of 2018 that it supports the Defendant's action. Since this is related, the Department, based on paragraph (1) of Article (42) of the VAT Law, which states: "Anyone who submits a tax return after its due date, or submits any document to the authority related to the tax due, resulting in an error in calculating the tax amount less than what is due, shall be fined an amount equal to (50%) of the difference between the calculated and due tax." Therefore, the Department rejects the Plaintiff's claim regarding the imposition of a fine for errors in the declaration. Third: Imposition of the Late Payment fine: Third: The imposition of a fine for late payment. The Department concluded in the first item related to the final assessment for the tax period of the fourth quarter of 2018 that it supports the Defendant's action. Since this is related, the Department, based on Article (43) of the VAT Law, which states: "Anyone who fails to pay the due tax within the period specified by the regulations shall be fined an amount equal to (5%) of the unpaid tax, for each month or part thereof for which the tax was not paid." Therefore, the Department rejects the Plaintiff's claim regarding the imposition of a fine for late payment.

Decision:

First: In Form: Plaintiff's claim regarding the domestic sales subject to the standard VAT rate for the tax period in question is dismissed, as Defendant's decision was found to be valid.

Second: Plaintiff's claim objecting to the filing error fine for the tax period in question is dismissed, as Defendant's decision was found to be valid.

Third: Plaintiff's claim objecting to the late payment fine for the tax period in question is dismissed, as Defendant's decision was found to be valid.

This decision was issued in the presence of both parties, and the Department set a period of thirty (30) days for the receipt of a copy of the decision. The Department may extend the deadline for receipt by an additional thirty days if deemed necessary. The parties to the case may request its appeal within (thirty) days from the day following the date specified for receipt thereof. In the event that objection is not submitted, it shall become final and enforceable after expiry of this period.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

Appeal Committee:

Appeal Committee ruled to uphold Department decision.



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1764)
Delivered in Case No. (V-82619-2021)

Key words:

Value-added tax - Field inspection fine - Legal period - Case dismissal.

Abstract

The Plaintiff's objection to the decision of Zakat, Tax and Customs Authority regarding the imposition of a field inspection fine, due to the Plaintiff's failure to present the VAT registration certificate at the store. The Plaintiff argues that they were unable to print the certificate due to a malfunction on ZATCA's website. ZATCA provided photos of the store, none of which showed the VAT registration certificate being displayed to the public. The regulatory texts indicate that if the case is filed by a party with standing and within the prescribed legal period, the case must be accepted in form. The Department found that: Since the Plaintiff did not provide evidence of a malfunction on ZATCA's website preventing them from printing the VAT registration certificate, the Plaintiff was found to have violated Article (8/8) of the Implementing Regulations of the Value-Added Tax Law. Based on the photos provided by the Defendant and the established violation by the Plaintiff, the Department agrees with the Defendant's action. Conclusion: The claim is accepted in form, and Plaintiff's claim is rejected due to the confirmed validity of Defendant's decision to impose the field violation fine in question. The decision is considered final and enforceable.

Instruments:

- Article (45/3) of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- Article (8/8) of [the Implementing Regulations of the Value Added Tax Law issued by decision of ZATCA Board No. \(3839\) on 14/12/1438 AH.](#)
- Article (15/Second) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 22/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (65472) dated 23/12/1439 AH convened to hear the above case. Given the case has fulfilled its prescribed legal requirements, it was filed with the General Secretariat of Tax Committees on 02/12/2021 AD.

The facts of this case are summed up so as... National ID No. (...), in its capacity as owner of (...) commercial registration number (...), filed a case which included his objection to the Defendant's



decision regarding the imposition of a field inspection fine. Having presented Plaintiff's statement of claim to Defendant's attorney, he submitted a one-page answer that was reviewed by the Department.

On Monday, 22/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its First session via video conference at 05:30 PM, in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. When calling the parties to the case, the Plaintiff or their representative was not present, but ... attended (a Saudi national), holder of National ID No. (...), appeared in his capacity as a representative of Zakat, Tax and Customs Authority under Authorization Letter No. (...) dated .../10/1443 AH, issued by the Deputy Governor for Legal Affairs. When asked about his response, Defendant's representative stated that he adheres to the contents of the reply memorandum submitted in the case file. For the validity of the case for adjudication is in accordance with the provisions of Article (20) of the Tax Dispute and Violation Committee Procedures. Accordingly, Department decided to adjourn the session in preparation for the issuance of the decision.

Grounds



Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Decision No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) and the relevant laws and regulations.

In Form: Since the Plaintiff seeks through his claim to annul Defendant's decision regarding the imposition of a field violation fine, and as this dispute falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and since the claim was submitted by a party with legal standing and within the legally prescribed time limit, the Department deems the claim procedurally admissible.

On Merits: After reviewing the entire case file and the defenses included, the Department determined that the dispute lies in the Defendant imposing a fine for violating the provisions of the Law or regulations, amounting to (10,000) Riyals, due to the Plaintiff's failure to display the VAT registration certificate at the store. The Plaintiff argues that they were unable to print the certificate due to a malfunction on ZATCA's website, and that they had previously visited ZATCA to rectify the situation. Upon reviewing the field inspection report submitted by the Defendant, dated the visit (26/10/2021), signed by the representative of the Taxpayer (...), mentioned in the violation mentioned as follows: "Failure to display the tax certificate." ZATCA provided photos of the store, none of which showed the VAT registration certificate displayed to the public. Since the Plaintiff did not provide evidence of a malfunction on ZATCA's website preventing them from printing the VAT registration certificate, the violation of Article (8/8) of the Implementing Regulations of the Value-Added Tax Law was confirmed, which states: "A taxable resident person registered with the Authority is required to display the registration certificate at their main place of business and branches, ensuring it is visible to the public." Based on the photos submitted by the Defendant and the established violation, the Department supports Defendant's action, in accordance with Paragraph (3) of Article (45) of the Value-Added Tax Law, which states: "A fine not exceeding fifty thousand (50,000) SAR shall be imposed on anyone who: 3. violates any other provision of the Law or the Regulations". Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Department, after unanimous deliberation, decided:



Decision:

- Plaintiff's case is dismissed due to validity of Defendant's decision to impose the field inspection fine subject of the dispute.

This decision was made in presence of both parties, in accordance with provisions of Article (56) of Law of Procedure Before Sharia Courts.

The Department has set thirty (30) days for receiving a copy of the decision, and may extend such period for another thirty (30) days, as it deems appropriate. This decision shall be deemed final and enforceable in accordance with provisions of Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1701)
Delivered in Case No. (V-85211-2021)

Key words:

Value-added tax - Field inspection fine - Failure to include tax in the invoice due for payment - Violation due to an error in the accounting program - Legal period - Case dismissal.

Abstract

The Plaintiff's request to cancel the decision of Zakat, Tax, and Customs Authority regarding the field inspection fine, due to the failure to include the tax due for payment in the invoice or indicate that the amount includes the attached tax in the inspection report, and Plaintiff's demand for the cancellation of the fine. The regulatory texts indicate that if the case is filed by a party with standing and within the prescribed legal period, the case must be accepted in form. The Department found that: Since the Plaintiff acknowledged in her objection that the violation occurred due to problems in the accounting program and not for the purpose of evasion, the Plaintiff did not provide any evidence indicating that the violation was caused by an error in the accounting program. As a result, the Plaintiff violated the required conditions for tax invoices. Conclusion: Acceptance of the case in form - Rejection of Plaintiff's claim, affirming the validity of the Defendant's decision to impose the field inspection fine in the case - The decision is final and enforceable.

Instruments:

- Articles (2/2), (23/1) and (45) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Article (8/53) of [the Implementing Regulations of the Value Added Tax Law issued by GAZT's Board of Directors No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday, 02/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, established under the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, and constituted pursuant to Royal Decree No. (65474) dated 23/08/1439 AH convened to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Tax Committees on 06/12/2022.

The facts of this case are summed up in that Mr....., National ID No..... as the owner of (...) Establishment Pursuant to C.R. No. (...), filed a case which included her objection to the Defendant's decision to impose the field inspection fine. Upon presenting the Plaintiff's case to the Defendant's representative, a reply memorandum consisting of one page was submitted, which the Department reviewed.



On Tuesday, 02/08/2022 AD, First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held its First session remotely in accordance with the remote virtual litigation procedures; pursuant to the provisions of Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040), dated 21/04/1441 AH. When calling the parties to the case, the Plaintiff or her representative was not present, but ... attended Saudi National, under National ID No. (...) also attended the session, in his capacity as ZATCA representative, by virtue of authorization No. (.....) dated .../10/1443 AH, issued by the Deputy Governor for Legal Affairs, and upon asking Defendant's representative for a response, he stated that he stands by the response memorandum submitted in case file and asserts case validity for adjudication according to Article (20) of the Rules of Tax Dispute and Violation Committee Procedures. Consequently, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

After reviewing Case documents, and upon thorough examination, and in light of the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/6/1425 AH as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 2/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Disputes and Violations Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the Plaintiff's claim seeks to annul the Defendant's decision regarding the imposition of RETT and late payment fine, given that this dispute falls within the jurisdiction of the Committee for Adjudication of Income Tax Violations and Disputes pursuant to Royal Decree No. (26040) dated 21/04/1441 AH, and since the Case was filed by an authorized party and within the prescribed statutory period, it is incumbent upon this Department to accept the Case in form.

On Merits: Upon reviewing the case documents and the responses of both parties after being given sufficient time to present their submissions, the Department determined that the dispute lies in the imposition of a fine for violating the provisions of the Law or regulations, due to the failure to include the due VAT in the invoice or indicate that the amount includes the attached tax in the inspection report. The Plaintiff is requesting the cancellation of the fine, claiming that there were (4) violations, each amounting to (10,000) Riyals, and that this error resulted from the accounting program, not with the intent of evasion. Paragraph (2) of Article (2) of the Value Added Tax Law states: "The tax shall be applied at a standard rate of (15%) on the value of supply or import, unless a provision for exemption or a zero rate applies, based on the provisions of the Law and its Regulations, to the specific supply." Paragraph (1) of Article (23) of the VAT Law, related to tax invoices, states: "The regulations shall specify the following: 1- The contents and format of tax invoices and the deadlines for their issuance". Additionally, Paragraph (8) of Article (53) of the Implementing Regulations of the VAT Law, which pertains to tax invoices, states: "A simplified tax invoice must include the following details, including: e. The VAT payable or a statement indicating that the price includes VAT concerning the supply of goods or services." Article (45) of the VAT Law states: "A fine not exceeding (50,000) fifty thousand SAR shall be imposed on any person who:" 3. violates any other provision of the Law or the Regulations". After reviewing the entire case file and the defenses contained within it, and referring to the field inspection report submitted by the Defendant dated .../08/2021, it appears that the violation concerns the failure to include the due tax amount in the invoice or to indicate that the amount includes the tax in the tax invoices. Upon reviewing the attached invoices, and since the Plaintiff acknowledged in her objection that the violation occurred due to problems in the accounting program and not with the intent to evade, the Plaintiff did not provide any evidence indicating that the violation was caused by an error in the accounting program. Therefore, due to the Plaintiff's failure to provide evidence



supporting her claim, the Plaintiff violated the conditions required for tax invoices in accordance with paragraph (e/8) of Article (53) of the Implementing Regulations of the Value Added Tax Law. Accordingly, the Department recommends rejecting the Plaintiff's claim and upholding the Defendant's decision to impose a fine for violating the provisions of the Law or regulations in the amount of (10,000) Riyals.

Based on the foregoing and in accordance with provisions of the Common Agreement, the Value Added Tax Law and its Implementing Regulations, and the Rules of Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided:

Decision:

- Plaintiff's claim is rejected, as Defendant's decision to impose the field inspection fine in question is found to be valid.

This decision was issued in the presence of both parties, in accordance with the provisions of Article (56) of the Law of Civil Procedure. The Department has set a period of thirty (30) days for collecting a copy of the decision, which may be extended for an additional thirty (30) days at the Department's discretion. The parties may appeal the decision within thirty (30) days from the day following the designated date for collection. If no appeal is submitted within this period, the decision shall become final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1670)
Delivered in Case No. (V-87183-2021)

Key words:

Value-added tax - Final reassessment - Adjustment of the local purchases subject to tax at the basic rate - Error in the declaration fine - Late payment fine.

Abstract

Plaintiff's request to cancel the decision of Zakat, Tax, and Customs Authority regarding the final reassessment for the tax period of June 2020, and the fines resulting from the reassessment, requesting the cancellation of the Defendant's decision. ZATCA responded as follows: The reassessment resulted in the adjustment of the local purchases subject to tax at the basic rate, as ZATCA excluded input invoices due to not meeting the regulatory requirements. As a result of the inspection and reassessment for the disputed tax period, the error in the declaration fine was imposed, and consequently, a late payment fine was imposed for the months following the disputed tax period. The Department found that the Plaintiff implicitly acknowledged that the invoices had a different name and tax number, but she did not provide evidence to support her claim of adding the record of Establishment issuing the excluded invoices to her main register. Since Establishment is entitled to deduct the input tax for the excluded invoices only due to their tax number association, the Department affirms Defendant's action of excluding the invoices. Regarding the error in the declaration fine for the disputed tax period, the Plaintiff acknowledged in her objection that the invoices bore the name and tax number of another institution and claimed their inclusion in her main register. Since (Item 1) led to supporting the Defendant's action, the Department confirms the validity of Defendant's decision based on the provisions of paragraph (1) of Article (42) of the Value Added Tax Law. Regarding the late payment fine for the disputed tax period, since (Item 1) led to supporting the Defendant's action, and the late payment fine resulted from it, the associated matter follows its judgment. - Conclusion: Dismiss Plaintiff case, and consider the decision as final and enforceable.

Instruments:

- Articles (43) and (50) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (42/1), (43), (53/5/e), (59/1) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) on 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.



On Monday, 10/01/1444 AH Corresponding to 08/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, established under the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Decree No. (65474) dated 23/12/1439 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Tax Committees on 20/12/2021.

Facts of the case are summarized that, holder of National ID number (.....), Being owner of ... commercial registration number (...), he filed a case which included his objection to the Defendant's decision regarding the final reassessment for the tax period of June 2020, and the fines resulting from the reassessment. He requests the cancellation of the Defendant's decision.

Having presented the statement of claim to Defendant, it responded as follows: First: In Form: On Merits: First: In Form: Regarding the adjustment of the local purchases subject to the basic tax rate: As a result of the reassessment, the local purchases subject to the basic tax rate were adjusted. The Plaintiff requests the acceptance of the purchase invoices related to the disputed tax period. However, ZATCA's actions align with the tax regulations regarding reassessment, as ZATCA excluded the input invoices due to their failure to meet regulatory requirements. The invoices provided by the Plaintiff bear the name of the client, ... Establishment and also have a tax number that differs from Plaintiff's tax number. Therefore, it is clear that the Plaintiff violated the provisions of paragraph (5) of Article (53) of the Implementing Regulations of the Value Added Tax Law. It is also worth noting that the right to deduct input tax for the invoices excluded by ZATCA belongs to company, based on the declarations linked to company's tax number. Accordingly, ZATCA stands by the validity of its decision, as the invoices for which the Plaintiff requests a deduction do not match the Plaintiff's registered name with ZATCA, which violates paragraph (e) of Article (53) of the aforementioned Implementing Regulations. Regarding the fines for error in the declaration and late payment: As a result of the inspection and reassessment process for the disputed tax period, the error in the declaration fine was imposed in accordance with paragraph (1) of Article (42) of the Value Added Tax Law. Consequently, a late payment fine was imposed for the months following the disputed tax period, in accordance with the provisions of Article (43) of the Value Added Tax Law. Defendant representative concluded his Reply with requesting dismissal of the case. End of response.

On Monday, 08/08/2022, the session was held according to remote litigation procedures. Both parties expressed their desire to proceed with the case, with, participating in the session National ID No..... in his capacity as the owner of the Plaintiff establishment, with the participation of the Defendant's representative, ... National ID No..... in his capacity as ZATCA's Representative by Authorization Letter No. (.....), Dated ../../..... issued by Deputy Governor for Legal Affairs. Having asked Plaintiff about his case, he responded that he admits what is mentioned in his statement of claim submitted to General Secretariat of Zakat, Tax and Customs Committees and confirms all facts contained therein. Having asked Defendant's representative about his reply to Plaintiff claims, he maintained his answers contained in his reply deposited in the case file. When asking both litigants if they had any other statements, they decided that they are satisfied with their earlier submissions. Therefore, the Department decided to dismiss both litigants for deliberation and issuance of decision.

Grounds

After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH as amended, Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH. the Common VAT Agreement of GCC States, and all relevant laws and regulations.



In form: Since the Plaintiff seeks through her case to cancel the Defendant's decision regarding the final reassessment for the tax period of June 2020, and the fines resulting from the reassessment, based on Value Added Tax Law and its Implementing Regulations, and since this dispute is a tax dispute, it falls within the jurisdiction of the Committee to Adjudicate Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a person with capacity, and within the legal time-limit. Therefore, the Department accepts the Case in form.

On merits, Upon the Department's review of the case documents and the responses from both parties after being given sufficient time to present their submissions, the dispute appears to center around the Plaintiff's objection to the Defendant's reassessment of the tax period in question. This reassessment resulted in the adjustment of the local purchases subject to the basic rate by excluding input invoices amounting to (7,730,184.18) Riyals, as they did not meet the regulatory requirements. These invoices bore a name and tax number different from the Plaintiff's name and tax number. The Plaintiff requested a reconsideration of this, arguing that the issuing entity of the excluded invoices (...) had been added to the main registry of their establishment (... for trade). Article (50) of the Value Added Tax Law stipulates: "Subject to the provisions of Article (28) of the law, ZATCA is responsible for managing, inspecting, assessing, and collecting the tax, and has the right to take the necessary measures in this regard." Additionally, paragraph (e/5) of Article (53) of the Implementing Regulations of the Value Added Tax Law states: "The tax invoice must be in Arabic, in addition to any other language in which it may be issued, and must include the following details:" e. "The name and address of both the supplier and the customer."

After reviewing the entire case file and the defenses contained within it, Plaintiff's claim is to cancel the adjustment of the local purchases subject to the basic rate for the tax period of June 2020. The original amount was (28,120,330.18) Riyals, which was adjusted by ZATCA to (20,390,146) Riyals. The Plaintiff objected to the Defendant excluding input invoices issued in the name of a different establishment (...), with the total amount of the excluded invoices being (7,730,184.18) Riyals. In her objection, the Plaintiff stated that the records of (...) were transferred to the Plaintiff's main registry (Establishment ... for Trade), and questioned the Defendant's exclusion of operational, general expenses invoices, and purchase returns for both establishments, while asking why sales were accepted without purchases. She also attached details of the purchase returns for the disputed tax period. However, she did not provide the documents and invoices to prove the validity of her claims. The Plaintiff implicitly acknowledged that the invoices bore a different name and tax number, but she did not provide evidence to support her claim of adding the record of (...) Establishment issuing the excluded invoices to her main registry. Given the Defendant's response in the reply memorandum that the exclusion of input invoices was due to their failure to meet the regulatory requirements, as they bore the name of (... Establishment) and a tax number different from the Plaintiff's tax number, thereby violating the provisions of Article (53/5) of the Implementing Regulations of the Value Added Tax Law, and that the right to deduct the input tax for the excluded invoices belongs to (...) Establishment, Based on the above and in light of the details mentioned, and given the right of the institution to deduct input tax for excluded invoices only, due to their connection with their tax number; the Department finds that the Defendant's action of excluding the invoices is valid.

Regarding the error in the declaration fine for the disputed tax period, the dispute centers on the Plaintiff's objection to the imposition of the error in the declaration fine for the tax period of June 2020, and her request for exemption from it. Paragraph (1) of Article (42) of the Value Added Tax Law states: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due"



After reviewing the entire case file and the defenses contained within it, the Plaintiff's claim is to cancel the error in the declaration fine, which resulted from the Defendant's adjustment of the local purchases subject to the basic rate by excluding input invoices. The Plaintiff acknowledged in her objection that the invoices bore the name and tax number of another institution and claimed their inclusion in her main registry. Since the decision in (Item 1) led to supporting the Defendant's action, the Department affirms the validity of the Defendant's decision based on the provisions of paragraph (1) of Article (42) of the Value Added Tax Law.

Regarding the late payment fine for the disputed tax period, the dispute centers on the Plaintiff's objection to the late payment fine and her request for exemption from it. Paragraph (1) of Article (59) of the Implementing Regulations of the Value Added Tax Law states: "Payment of Tax due by a Taxable Person in respect of a Tax Period must be made at the latest by the last day of the month following the end of that Tax Period". Additionally, Article (43) of the VAT Law states: "Any person who fails to pay the tax due within the period specified by the Regulations shall be subject to a fine equal to 5% of the amount of the unpaid tax for each month or part thereof for which the tax is not paid".

After reviewing the entire case file and the defenses contained within it, the Plaintiff's claim is to cancel the late payment fine resulting from the Defendant's adjustment of the local purchases subject to the basic rate in the final reassessment for the disputed tax period. According to the provisions of paragraph (1) of Article (59) of the Implementing Regulations of the Value Added Tax Law, the legal deadline for paying the owed tax is the last day of the month following the end of that tax period. The last day for the Plaintiff based on their tax period was (30/06/2020). Since the decision in (Item 1) led to supporting the Defendant's action, and since the late payment fine resulted from that, the related matter follows the same ruling. Therefore, in accordance with the provisions of Article (43) of the Value Added Tax Law, the Department affirms the validity of Defendant's decision.

Based on the above Grounds, and based on the Common VAT Agreement, VAT Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:

Decision:

- To dismiss Plaintiff case.

This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax
Violations and Disputes in Dammam

Decision No. (VD-2022-1719)
Delivered in Case No. (V-
94366-2021)

Key words:

Value-added tax - Final reassessment - Unreported sales initially - ZATCA's right to conduct a tax assessment regardless of the tax return submitted - Local purchases subject to the basic tax rate - Exclusion of adjustments made to the purchase modification item.

Abstract

The Plaintiff's objection to the decision of Zakat, Tax, and Customs Authority regarding the final reassessment for the tax period of the first quarter of 2018, and the fines resulting from it. The Plaintiff requests the cancellation of the Defendant's decision. ZATCA responded as follows: It was found that there were sales that were not initially disclosed, leading ZATCA to adjust the sales item for the disputed tax period. The Plaintiff submitted his return for the disputed period and disclosed local purchases subject to the basic tax rate. However, he then made an adjustment and mistakenly added an amount related to purchases in the modification item, which the Plaintiff acknowledged. During the inspection and review process, ZATCA excluded the adjustments made to the purchases modification item. The Department found that ZATCA conducted a tax assessment for the Taxpayer regardless of the tax return submitted by the Plaintiff. It is clear that the Defendant added unreported sales, and since the Plaintiff did not dispute the correctness of ZATCA's actions, but acknowledged submitting an incorrect return, the Department concludes to support Defendant's action in this regard and reject the Plaintiff's claim. Regarding local purchases subject to the basic tax rate for the first quarter of 2018, it is clear that the Defendant refused to allow the deduction of purchases subject to the basic rate due to Plaintiff's failure to provide the required documents. Additionally, the Plaintiff did not submit a purchase statement or the necessary documents to ZATCA or during the litigation phase. Consequently, the Department decides to support Defendant's action on this item and reject the Plaintiff's claim. As for the error in the declaration fine for the first quarter of 2018, since the review of the first two items regarding the reassessment resulted in the rejection of Plaintiff's objection, and since the error in the declaration fine resulted from this, the related matter follows the same ruling. Conclusion: The Plaintiff's claim is rejected, and the decision is considered final and enforceable.

Instruments:

- Article (26/1), (42) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- Articles (14) and (49/8) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) on 14/12/1438 AH.](#)

Facts:





Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday, 23/01/1444 AH Corresponding to 21/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, established under the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Decree No. (65474) dated 23/12/1439 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Tax Committees on 04/02/2022.

Facts of this case are as follows: Mr. ..., National ID No. (...), in his capacity as owner of ... establishment, for selling foodstuffs, commercial registration number (...), filed a case which included his objection to the Defendant's decision regarding the final reassessment for the tax period of the first quarter of 2018, and the fines resulting from it. He requests the cancellation of the Defendant's decision.

Having presented the statement of claim to Defendant, it responded as follows: First: In Form: On Merits: Regarding the adjustment of the local sales subject to the basic tax rate (5%) and the adjustment of sales modifications: After reviewing what the Plaintiff submitted, it was found that there were sales that were not initially disclosed, and thus, ZATCA modified the sales item for the disputed tax period based on the documents the Plaintiff provided to ZATCA, in accordance with Article (14) of the Implementing Regulations of the Value Added Tax Law. Since there were no sales returns, and the Plaintiff acknowledged that he mistakenly disclosed the sales amount under the sales modification item. Regarding the adjustment of the purchases subject to the 5% tax rate: ZATCA informs the esteemed committee that the Plaintiff submitted his return for the disputed tax period and disclosed local purchases subject to the basic tax rate. The Plaintiff then made an adjustment by adding an amount related to purchases in the modification of the purchases item by mistake, which the Plaintiff acknowledged. During the inspection and review process, ZATCA excluded the adjustments made to the purchases modification item because the Plaintiff did not provide the necessary documents. The Plaintiff is entitled to deduct these amounts in later periods if the regulatory conditions are met, in accordance with the provisions of Article (49) of the Implementing Regulations of the Value Added Tax Law. Regarding the late payment fine and the error in submitting the tax return fine: The Defendant's representative concluded their memorandum by requesting the rejection of the Plaintiff's claim on its merits. End of Answer.

The Plaintiff responded with a reply memorandum, which included the following: Regarding the adjustment of the sales subject to the basic 5% tax rate and the adjustment of sales modifications voluntarily: ZATCA found that there were sales that were not initially disclosed, and we acknowledged that this was a mistake. We reply that our acknowledgment of the error is based on the principle of honesty. Regarding the adjustment of purchases subject to the basic 5% tax rate: We also made a mistake in recording the item, and we mentioned this to ZATCA's inspector and sent her a letter. She modified the sales item but rejected the modification of the purchases item. She did not request invoices or documents from us, which resulted in an imbalanced tax return with financial sales of (100,000) Riyals and purchases of (5,000) Riyals. After the unfair modification, the tax return became inflated, and the correct amount for the purchases item is (88,000) Riyals. Regarding the fines: Due to ZATCA's inspector's rejection of the purchase modification, the tax return was calculated unfairly, and as a result, two fines were imposed retroactively for four years. As a result, the establishment was closed due to the injustice we suffered from ZATCA. Therefore, we are unable to deduct the amounts in subsequent periods, as the establishment is closed, in accordance with the provisions of Article (49) of the Implementing Regulations of the Value Added Tax Law. The Plaintiff concluded their memorandum by requesting that the Defendant be ordered to refund the amounts and exempt the Plaintiff from the fines resulting from the reassessment. End of Answer.

On Sunday, 21/08/2022 AD, a session was held in accordance with Procedures for Remote Litigation. The Defendant was present, while the Plaintiff was not, despite being notified of the



date and manner of conducting the session. However, Defendant's Representative, ... National ID No..... in his capacity as ZATCA's Representative by Authorization Letter No. (.....), Dated .././..... issued by Deputy Governor for Legal Affairs. Given the Plaintiff's absence, the Defendant requested to proceed with the case and issue a decision. Therefore, the Department decided to adjourn the session for deliberation and issue a decision.

Grounds

After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH as amended, Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH. the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form: Since the Plaintiff seeks through his case to cancel Defendant's decision regarding the final reassessment for the tax period of the first quarter of 2018, and the fines resulting from it, based on Value Added Tax Law and its Implementing Regulations, and since this dispute is a tax dispute, it falls within the jurisdiction of the Committee to Adjudicate Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a person with capacity, and within the legal time-limit. Therefore, the Department accepts the Case in form.

On merits, upon reviewing the case file and the responses from both parties after being given sufficient time to present their submissions, it is clear that the dispute lies in the Defendant's addition of sales that were considered unreported. Regarding the local sales subject to the basic tax rate for the first quarter of 2018, paragraph (1) of Article (26) of the Value Added Tax Law states: "The Authority may make a Tax assessment of a Taxable Person irrespective of a Tax Return filed by him". and of Article (14) of the Implementing Regulations of VAT Law states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom."

It was found that the Plaintiff objected to the Defendant's modification of the return, as it is clear that the Defendant added unreported sales. Since the Plaintiff did not dispute the correctness of ZATCA's actions, but instead acknowledged that he had submitted an incorrect return, the Department concludes to support the Defendant's action in this regard and reject the Plaintiff's claim.

Regarding the local purchases subject to the basic tax rate for the first quarter of 2018, the Plaintiff objects to the modification of the purchases item and claims that the purchase amount is (88,000) Riyals. Paragraph (8) of Article (49) of the Implementing Regulations of the Value Added Tax Law states: "A deduction of Input Tax may be made by a Taxable Person in a Tax Period subsequent to that Tax Period including the date of Supply, provided that the Taxable Person remains eligible to make such deduction under the other provisions of these Regulations. "Input tax may not be deducted in any period that occurs more than five years after the calendar year in which the supply took place." It was found that the Plaintiff objected to the Defendant's modification of the return, and it is clear that the Defendant rejected the deduction of purchases subject to the basic rate due to the Plaintiff's failure to provide the necessary documents. The Plaintiff also did not submit a statement of purchases and the required documents, either to ZATCA or during the litigation phase. Therefore, the Department decided to support the Defendant's action in this regard and reject the Plaintiff's claim.



Regarding the error in the declaration fine for the first quarter of 2018, the dispute lies in the imposition of the error in the declaration fine for the first quarter of 2018. Paragraph (1) of Article (42) of the Value Added Tax Law states: "Anyone who submits a tax return to the Authority containing incorrect information, or modifies a submitted tax return, or provides any document to the Authority regarding the tax owed, resulting in an error in the calculation of the tax amount being less than the amount owed, shall be penalized with a fine equal to (50%) of the difference between the calculated and the owed tax." The Plaintiff's claim is to cancel the error in the declaration fine, which resulted from Defendant's modification of Plaintiff's tax return for the first quarter of 2018. Since the review of the first two items related to the reassessment led to the rejection of Plaintiff's objection, and since the error in the declaration fine resulted from that, the related matter follows the same ruling. Therefore, the Department decided to reject the Plaintiff's objection on this item, and the same reasoning and judgment apply to the late payment fine for the first quarter of 2018. Based on the above and in accordance with the provisions of the Common Agreement, the Value Added Tax Law, its Implementing Regulations, and the operational rules of the Tax Violations and Disputes Settlement Committees, the Department decided, after deliberation, unanimously:

Decision:

– To dismiss Plaintiff case.

This decision was made in presence of parties, in accordance with the provisions of Article (21) of Tax Disputes and Violations Committee Procedures. The date on which the decision was uploaded to General Secretariat of Zakat, Tax and Customs Committees is the date of decision delivery. This decision is final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1721)
Delivered in Case No. (V-93988-2022)

Key words:

Value-added tax - Refund for payment of value-added tax - The principle that the sale price includes the tax amount - The parties are bound by their terms - The value-added tax burden is on the buyer, while the burden of its supply is on the seller.

Abstract

Plaintiff's request to oblige the Defendant to refund the value of the value-added tax payment, amounting to (22,000) Riyals, due to the sale of a property for (440,000) Riyals. The Defendant responded: It is clear that ... sold the property in 2018 and did not receive the tax amount at that time. Please review the branch and provide the necessary supporting documents, and the tax amount will be verified and refunded to the eligible owners. The Department found that the payment of the value-added tax falls on the buyer, while the burden of supplying it falls on the seller. It is the general principle that the sale price includes the tax amount. As it is said, "The parties are bound by their terms, except for a term that makes what is lawful unlawful or what is unlawful lawful." Since the Plaintiff did not dispute the validity of what the Defendant mentioned about the sale process, and since the price was determined as stated above, any burden imposed on the buyer thereafter without legal basis would undermine the buyer's intent and unjustly place a financial burden on them. This would, inevitably, lead to instability in the financial situation of all sales transactions. Conclusion: The Plaintiff's claim is rejected, and the decision is considered final and enforceable.

Instruments:

- Articles (1) and (25/2) of [The Common VAT Agreement of GCC States, issued pursuant to Royal Decree No. \(M/51\) dated 03/05/1438 AH](#)
- Article (14) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) on 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday 21/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, formed pursuant to Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, and Royal Order No. (65474) dated 23/12/1439 AH, held its session to hear the above case. Since the case satisfied the prescribed regulatory procedures, it was filed with the General Secretariat of Tax Committees under the above number on 31/01/2021 AD.



The facts of this case are summarized as follows: Mr. (...), holder of National ID No. (...), in its capacity as attorney of (...), holder of National ID No. (...), filed a case against the Defendant / Bank ..., commercial registration number (...), which includes obligating the Defendant to refund the value of the value-added tax payment, amounting to (22,000) Riyals, due to the sale of a property for (440,000) Riyals.

Having presented the statement of claim to Defendant, it answered as follows: "The Implementing Regulations of the Value Added Tax Law indicate that the registrant must present the tax registration certificate and charge the tax to their customers during the sale. It is clear that Mr. ... sold the property in 2018 and did not receive the tax amount at that time. Please review the branch and bring the necessary supporting documents, and the tax amount will be verified and refunded to the eligible owners." End of Answer.

On Sunday, 21/08/2022 AD, a session was held in accordance with Procedures for Remote Litigation. Upon calling on both Parties to the case, Plaintiff's representative appeared: ... on behalf of himself, with National ID No. (...), under Power of Attorney No. (...), and (...), holding National ID No. (...), was also present In his capacity as Defendant's Attorney, by power of attorney No. Having asked Plaintiff's attorney about his case, he maintained his responses submitted in the statement of claims filed with the General Secretariat of the Tax Committees. Having asked Defendant's attorney about his reply, he maintained the responses included in his plea. When asked if either Party had anything additional to submit beyond what was previously presented in the claim statement and responses, they responded that they did have additional information.

Therefore, the Department decided that parties to the Case should temporarily leave the virtual room for deliberation and adjudication.

Grounds

After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH as amended, Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH. the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form, since the Plaintiff seeks through his case to oblige the Defendant to refund the value of the value-added tax payment, amounting to (22,000) Riyals, based on the Value Added Tax Law and its Implementing Regulations, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Tax Violations and Disputes Committee pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form.

On merits, upon reviewing the case documents and the responses of both parties after being given sufficient time to present their submissions, it is clear that the dispute between the Plaintiff and the Defendant centers on Plaintiff's claim to refund the value-added tax of (22,000) Riyals from the Defendant. Article (25) of the Common Agreement for the Value Added Tax Law of the Gulf Cooperation Council member states: "1. VAT shall be applied at a standard rate of 5% on the value of the supply or import, unless an exemption or a zero rate is provided for the same supply in this Agreement." Additionally, Article (14) of the VAT Law, related to taxable supplies in the Kingdom, states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom."



There is no dispute that the obligation to pay the VAT amount falls on the buyer, while the responsibility to remit it to ZATCA lies with the seller. Furthermore, the default principle is that the sale price includes the VAT amount, as stipulated in the Common VAT Agreement of the Gulf Cooperation Council. The definition of the term “Consideration” in Article (1) of the Agreement states: “Any amount received or to be received by the taxable supplier from the customer or a third party for the supply of goods or Service including VAT.” Additionally, Paragraph (Second) of Article (25) of the same Agreement states: “.... The advertised price of goods and services in the local market must include Value-Added Tax (VAT). Since no legal provision exempts real estate from this requirement, and the Plaintiff has not disputed the Defendant's statements regarding the sale transaction, the following principles apply: "Muslims are bound by their conditions, except for a condition that prohibits what is lawful or permits what is unlawful.” Offer and acceptance, the contracting parties, and the subject matter (the sold property and its price) constitute the essential pillars of a valid sale contract. Since the price was agreed upon and determined, any additional financial burden imposed on the buyer without a legal basis undermines his contractual will and unjustly subjects him to a financial obligation. If sellers were allowed to claim that VAT was not included in the sale price and attempt to recover it from the buyer after the transaction, it would destabilize financial transactions for all sales. Any seller could claim that their price excluded VAT, leading to retrospective claims against buyers. This is precisely what Article (1) and Paragraph (2) of Article (25) of the same agreement sought to affirm. Based on the foregoing and in accordance with provisions of the Common VAT Agreement of GCC Countries, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, this Department unanimously decided to:

Decision:

- To dismiss Plaintiff case.

This decision was made in presence of parties, in accordance with the provisions of Article (21) of Tax Disputes and Violations Committee Procedures. The date on which the decision was uploaded to General Secretariat of Zakat, Tax and Customs Committees is the date of decision delivery. This decision is final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1737)
Delivered in Case No. (V-89427-2021)

Key words:

Value-added tax - The principle of non-retroactive application of any law - The principle of exceptions, including the enactment of a law more favorable to the accused - Field inspection fine - Gradation of violations related to field visits and electronic invoicing - No basis for applying a fine decided by the regulator with ZATCA to annul it.

Abstract

The Plaintiff's request to cancel the decision of Zakat, Tax, and Customs Authority regarding the imposition of a field inspection fine, No. (...), dated .../.../2021. ZATCA responded as follows: Upon a visit to the Plaintiff's site during the field campaign to ensure proper application of the Law, it was found that the Plaintiff violated the provisions of the regulations. As a result, ZATCA imposed a fine of (10,000) Riyals on the Plaintiff. The Department found that, following the decision of the Board of Directors of Zakat, Tax, and Customs Authority, there is now a gradation for violations related to field visits and electronic invoicing, where the Taxpayer is given a warning for a first-time offense, with fines escalating upon recurrence. The principle is that no law shall apply retroactively; however, this principle is subject to exceptions, including the enactment of a law more favorable to the accused, as in this case. Therefore, there is no basis for applying a fine that the regulator, in exercising its authority, has the power to annul. Moreover, removing the financial fine imposed on the Taxpayer from this principle is unjustified and deprives the person of a legal position granted by the regulator without proper cause. Conclusion: Plaintiff's claim is accepted, and the fine in question is canceled based on the reasons provided. The decision is final and enforceable.

Instruments:

- Article (45/3) of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- Article (8/8) of [the Implementing Regulations of the Value Added Tax Law issued by decision of ZATCA Board No. \(3839\) on 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Thursday, 22/12/1443AH Corresponding to 21/07/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, established under the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Decree No. (65474) dated 23/12/1439 AH to consider the aforementioned



case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Tax Committees on 29/12/2021.

The facts of this case are summarized as follows: ..., with National ID number (...), in his capacity as the representative for ..., with National ID number (...), in his capacity as the manager of the company ..., commercial registration number (...), under power of attorney number (...), filed a case which included his objection to the Defendant's decision regarding the imposition of a field inspection fine, No. (...) dated ..., requesting the cancellation of the Defendant's decision.

Having presented the statement of claim to Defendant, it responded as follows: First: In Form: On Merits: Upon reviewing the Plaintiff's case, it is evident that the case concerns the field inspection fine related to the Plaintiff's failure to display the VAT registration certificate at her place of business. Accordingly, ZATCA summarizes its response as follows: On 24/10/2021, ZATCA's representatives visited Plaintiff's site during the field campaign to ensure the proper application of the Value Added Tax Law and its Implementing Regulations. After the inspection, it was found that the Plaintiff violated the provisions of the regulation outlined in paragraph eight of Article 8 of the Implementing Regulations of the Value Added Tax Law, which states: "A taxable resident person registered with the Authority is required to display the registration certificate at their main place of business and branches, ensuring it is visible to the public" (Attached) After confirming the Plaintiff's violation of the provisions of the Value Added Tax Law and its Implementing Regulations as outlined above, ZATCA imposed a fine of (10,000) Saudi Riyals on the Plaintiff, under decision No. (...), based on paragraph three of Article 45 of the Value Added Tax Law, which states: "A fine not exceeding fifty thousand (50,000) SAR shall be imposed on anyone who: 3. violates any other provision of the Law or the Regulations". Second: Requests: Based on the above, ZATCA requested the Honorable Committee to dismiss the case for the Grounds stated above and uphold ZATCA procedures subject of the case. Also, ZATCA reserves the right to provide further replies and clarifications until closing of the pleadings. This concludes Defendant's response.

The Defendant submitted an additional memorandum, which included the following: "Upon reviewing the Plaintiff's case, it is clear that the objection pertains solely to the late registration fine. ZATCA's response is summarized as follows: ZATCA stands by the arguments presented in its initial reply memorandum. The esteemed Department has consistently canceled ZATCA's decisions related to imposing field inspection fines based on the Board of Directors' decision to reclassify violations and the corresponding fines. Since the dates for the field inspection violations upon which the fines were imposed are prior to the date of the decision referred to by the Department, it is clear that the legal principle established by the judiciary—that laws do not apply retroactively—applies. This principle means that new legal provisions cannot be applied to past actions unless explicitly stated in the new ruling or regulatory decision. Therefore, the Department's reliance on this decision is invalid, as failing to consider the arguments presented by ZATCA denies it its right to submit defenses that clarify its position. ZATCA also affirms that field inspection reports and invoices related to cases filed by taxpayers who present objections to the Secretariat are submitted to the Department before the close of litigation, and thus, the Department must consider these and issue its decision based on the arguments from both sides. Esteemed members, you are well aware of the classification of legal branches by legal scholars. They recognize the existence of criminal, administrative, and other branches of law, each with its own foundations, boundaries, and reasons for their existence. It is inconceivable to confuse felonies with misdemeanors, or violations with infractions. Each category of crime has its governing principles, and in criminal and misdemeanor cases, a person is referred to as the accused, while in a violation, they are referred to as the violator. Consequently, the rules for fines and deterrence differ between these categories. Legal systems have developed such that fines for felonies and misdemeanors are both physical and financial, while fines for violations are only financial and administrative. The difference in these fines is a result of a fundamental belief in the differences between their nature and the principles they are based on. The esteemed Department's



reliance on the principle of "the law more favorable to the accused" to annul the Authority's decisions on field inspection fines misrepresents the law and its branches. Moreover, the principle invoked by the Department pertains to criminal law, while the dispute at hand is administrative in nature. In administrative law, the offense is classified as a "violation," and the offender is described as a "violatee," not as an accused individual. As such, the Department's decisions regarding field inspection fines contradict each other. The Department reasons that "the new amendment is considered a more favorable law for the violator," but then states, "Although the general principle is that no legal provision applies retroactively unless explicitly stated, there are exceptions, such as when a more favorable law for the accused is issued." The Department refers to the plaintiffs at times as violators and at other times as accused individuals, which creates a contradiction. If the Department intends to describe the plaintiffs as violators, then the principle of "the more favorable law for the accused" should not apply, as it is tied to criminal law, as explained earlier. It is inconceivable for the Department to consider the plaintiffs as accused, since there is no doubt that the correct description for them is "violators." Therefore, the exception does not apply to the facts before the esteemed Department, and ZATCA's decision can only be described as an administrative decision, which is not subject to the same treatment as criminal cases. Second: Requests: Based on the above, ZATCA requested the Honorable Committee to dismiss the case for the Grounds stated above and uphold ZATCA procedures subject of the case. Also, ZATCA reserves the right to provide further replies and clarifications until closing of the pleadings.

Plaintiff submitted a reply stating the following: "Referring to ZATCA's reply memorandum (1) regarding the case concerning the decision issued by ZATCA related to the imposition of a field inspection fine, after reviewing the document, the company provides the following response: Regarding the fine for not displaying the tax certificate, No. (...): Authority's Viewpoint: "ZATCA mentioned that on .../.../2021, ZATCA's representatives visited the Plaintiff's site during the field campaign to ensure the proper application of the Value Added Tax Law and its Implementing Regulations. After the inspection, it was found that the Plaintiff violated the provisions of the regulation in paragraph eight of Article eight of the Implementing Regulations of the Value Added Tax Law, which states, "The taxable resident person registered with the Authority is obligated to display the registration certificate at their main place of business and branches, in a manner visible to the public." Company's Response: Violation No. ... Regarding the failure to display the tax certificate, the company disagrees with ZATCA's statement. The tax certificate has been displayed to the public at the store since the implementation of the Value Added Tax Law. The image provided in ZATCA's memorandum pertains to a different branch of the company, located in (Riyadh, ..., ...). Indeed, the tax certificate was not displayed during the field visit, and a fine, No. ..., was imposed. The fine was paid on November 23, 2021, after verifying the absence of the certificate at the store. Regarding the fine ... subject of the dispute for the branch located in (Riyadh, ..., ...): The company requests that ZATCA provide us with images proving the non-display of the tax certificate at the store. During the verification of the store, we were informed that the tax certificate was displayed at the time of the field campaign. The cashier at store was asked only to present the municipal license for closer inspection, and the Value Added Tax certificate, which was clearly displayed in the showroom, was not inspected, as shown in the attached document. In light of the above, the company requests that your esteemed committee cancel the decision to impose the fine for not displaying the tax certificate, as the provisions of the mentioned paragraph do not apply to the company's case. Plaintiff's Requests: The company requests that your esteemed committee achieve the following: Cancel the Authority's action of imposing the field inspection fine for not displaying the tax certificate. The company reserves the right to submit any additional memoranda or documents in the future before the close of litigation."

On Thursday, 21/07/2022 AD, the Department held a session via video conference in accordance with remote litigation procedures. At this session, Defendant appeared. However, Plaintiff did not appear despite being notified of session date and its virtual format. Defendant's representative, ...,



participated National ID No..... in his capacity as ZATCA's Representative by Authorization Letter No. (.....), Dated ../../..... issued by Deputy Governor for Legal Affairs. Given the Plaintiff's absence, the Defendant requested to proceed with the case and issue a decision. After reviewing the case details and submitted documents, and since the case was ready for adjudication, the Department closed the pleadings for deliberation. In accordance with the VAT Law, its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department proceeded with issuing its decision.

Grounds

After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH as amended, Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH. the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form, since the Plaintiff instituted his case moving to cancel the Defendant's decision regarding the imposition of a field inspection fine, based on the Value Added Tax Law and its Implementing Regulations, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Committee for Resolution of Tax Disputes and Violations pursuant to Royal Decree No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form.

On merits, Upon reviewing the case file and the responses from both parties, it is clear that the dispute centers on Plaintiff's request to cancel the field inspection fine. It is established that the decision of the Board of Directors of Zakat, Tax, and Customs Authority, which came into effect on 30/01/2022, included the reclassification of violations and the fines for them. A gradation was established for violations related to field visits and electronic invoicing, with the first-time violation only warranting a warning, escalating to harsher fines upon repetition. Since the Board is authorized by law to issue such decisions, and the new amendment is considered more favorable to the violator, the decision aligns with the purpose of the Law, particularly Article 48, which emphasizes the need for consistency between the violation and the fine, and the necessity for a graduated approach to imposing fines, with a warning before imposing any fine. While the general principle is that no law applies retroactively, exceptions exist, including the enactment of a law more favorable to the accused, as is the case here, where no final, enforceable judgment has yet been issued.

Upon reviewing the case file and the responses from both parties, it is clear that the dispute lies in Plaintiff's request for the Defendant to cancel the field inspection fine. It is established that the decision of the Board of Directors of Zakat, Tax, and Customs Authority, which came into effect on 30/01/2022, included the reclassification of violations and the fines for them. A gradation was introduced for violations related to field visits and electronic invoicing, whereby a warning is sufficient for a first-time violation, and the fines become progressively harsher for repeated violations. Since the Board is authorized by law to issue this decision, and the new amendment is considered more favorable to the violator, the decision aims to achieve one of the objectives of the Law, particularly Article 48, which mandates that the fine should be proportional to the violation, and also calls for a gradual approach to imposing fines, with a warning before imposing any fine. Although the general principle is that no law shall apply retroactively, exceptions exist, including the enactment of a law more favorable to the accused, as is the case in this instance, where no final, enforceable judgment has yet been issued. Defendant's objection to the Department's application of the "more favorable law" principle in this case does not affect the outcome, as this principle pertains to substantive criminal provisions related to the legality of crimes and fines, grounded in the ideas of social benefit and justice. From the perspective of social



benefit, a fine should only be imposed if it is required for the social interest; otherwise, there is no reason to apply it. The issuance of a new law that permits an act previously criminalized or reduces a fine that was imposed is essentially an acknowledgment that the previous law or fine was unjustified or excessive. Therefore, there is no basis for applying a fine that the regulator, in exercising its authority, has decided to annul. Additionally, the removal of the financial fine imposed on the Taxpayer from this principle is unjustified and deprives the person of a legal position granted by the regulator without proper cause. Accordingly, the Department concludes that the Defendant should benefit from this decision, and the previous action is considered a commitment to their rights. Should they repeat the same violation within the specified statutory periods, they will be subject to progressively harsher fines, as the Department deems appropriate. Based on the above Grounds, and based on the Common VAT Agreement, VAT Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:

Decision:

- Acceptance of Plaintiff's case and cancellation of the fine in question based on the reasons provided.

This decision was rendered in the presence of both parties, and the date of filing the decision in the electronic system of the General Secretariat for Zakat, Tax, and Customs Committees is considered the date of delivery of the decision. The decision is deemed final and enforceable in accordance with Article (42) of Rules of Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1740)
Delivered in Case No. (V-89678-2021)

Key words:

Value-added tax - Simplified invoice inspection - Field inspection fine - The principle of non-retroactive application of any law - Gradation of violations related to field visits and electronic invoicing - The principle has exceptions, including the enactment of a law more favorable to the accused - No basis for applying a fine that the regulator has the authority to annul.

Abstract

The Plaintiff's objection to the decision of Zakat, Tax, and Customs Authority regarding the imposition of a field inspection fine, and his request for the cancellation of the Defendant's decision. - ZATCA responded as follows: Upon visiting the Plaintiff's site and inspecting the simplified invoices provided to ensure the proper application of the Value Added Tax Law and its Implementing Regulations, the Plaintiff was found to be in violation.

The Department found that with the issuance of the decision by the Board of Directors of Zakat, Tax, and Customs Authority, a gradation for violations related to field visits and electronic invoicing was introduced, where a warning is sufficient for a first-time violation, with progressively harsher fines for repeated offenses. The general principle is that no law applies retroactively, but this principle has exceptions, such as the enactment of a law more favorable to the accused, as is the case in this issue. The issuance of a new law that permits an act previously criminalized or reduces a fine is essentially an acknowledgment that the previous law or fine was unjustified or excessive. Therefore, there is no basis for applying a fine that the regulator, in exercising its authority, has decided to annul. Additionally, removing the financial fine imposed on the Taxpayer from this principle is unjustified and deprives the individual of a legal position granted by the regulator without proper cause. Conclusion: Plaintiff's claim is accepted, and the fine in question is canceled based on the reasons provided. The decision is final and enforceable.

Instruments:

- Articles (2), (45/3), and (48) of [the Value-Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Article (53/8) of [the Implementing Regulations of the Value Added Tax Law issued by decision of ZATCA Board No. \(3839\) on 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Thursday, 22/12/1443 AH Corresponding to 21/07/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, established under the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and



constituted pursuant to Royal Decree No. (65474) dated 23/12/1439 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Tax Committees on 30/12/2021.

Facts of this case are as follows: Mr./....., holding National ID No., in its capacity as Plaintiff attorney, holding National ID No., in her capacity as the owner of Trading Establishment commercial registration number (...), under power of attorney number (...), filed a case which included her objection to the Defendant's decision regarding the imposition of a field inspection fine, No. (...). dated ..., requesting the cancellation of the Defendant's decision.

Having presented the statement of claim to Defendant, it responded as follows: First: In Form: On Merits: Upon reviewing the Plaintiff's case, it is clear that it is limited to the objection to ZATCA's decision regarding the imposition of a field inspection fine, No. (...) dated Accordingly, ZATCA summarizes its response on the substantive aspect as follows: ZATCA's representative visited Plaintiff's site and examined the simplified invoices provided to ensure the proper application of the Value Added Tax Law and its Implementing Regulations. After the inspection, it was found that the Plaintiff violated Article (2) of the Value Added Tax Law, which states: "Tax shall be imposed on the import and supply of goods and services in accordance with the provisions stipulated in the Agreement, the Law and the Regulations." Additionally, Paragraph (8) of Article (53) of the Implementing Regulations of the VAT Law states: "'A simplified tax invoice must include the following details:" e- The payable tax amount or a statement that the price includes tax concerning the supply of goods or services.'" The tax invoices issued by the Plaintiff included tax amounts lower than the legally prescribed rate, resulting in a violation. after confirming Plaintiff's violation of the provisions of the Value Added Tax Law and its Implementing Regulations as outlined above, ZATCA imposed a fine of (10,000) Saudi Riyals on him, based on paragraph (3) of Article (45) of the Value Added Tax Law, which states: "A fine not exceeding fifty thousand (50,000) SAR shall be imposed on anyone who: 3. violates any other provision of the Law or the Regulations". Second: Requests: Dismiss case for Grounds stated above, and alternatively uphold ZATCA decision in dispute, while reserving the right to provide further responses and clarifications before pleadings closure. This concludes Defendant's response.

The Defendant submitted an additional memorandum, which included the following: "Upon reviewing the Plaintiff's case, it is clear that the objection pertains solely to the late registration fine. ZATCA's response is summarized as follows: ZATCA stands by the arguments presented in its initial reply memorandum. The esteemed Department ruled to annul ZATCA's decisions regarding the imposition of field inspection fines, based on the Board of Directors' resolution to reclassify violations and the corresponding fines. However, the dates of the field inspection incidents on which the fines were imposed precede the issuance date of the resolution relied upon by the Department in its decision. As Your Excellency is aware, the well-established legal principle, recognized by the judiciary, is the non-retroactivity of laws, which means that new legal provisions do not apply to past events. Retroactive application of a legal text is not permitted unless explicitly stated in the ruling or new regulation itself. Therefore, the Department's reliance on the aforementioned resolution necessitates nullification. Moreover, Department's failure to consider the defenses submitted by ZATCA constitutes a violation of Authority's legal right to present arguments that clarify its position. ZATCA affirms that field inspection reports and invoices related to cases submitted by taxpayers who file objections with the Secretariat are provided to the Department before the closure of pleadings. Thus, the Department is required to review these materials and issue its decision based on the evidence presented by both parties. Esteemed members, you are well aware of the classification of legal branches by legal scholars. They recognize the existence of criminal, administrative, and other branches of law, each with its own foundations, boundaries, and reasons for their existence. It is inconceivable to confuse felonies with misdemeanors, or violations with infractions. Each category of crime has its governing



principles, and in criminal and misdemeanor cases, a person is referred to as the accused, while in a violation, they are referred to as the violator. Consequently, the rules for fines and deterrence differ between these categories. Legal systems have developed such that fines for felonies and misdemeanors are both physical and financial, while fines for violations are only financial and administrative. The disparity in these fines is merely the inevitable result of a deeply rooted belief in their differing natures and the principles they are based on. Therefore, the esteemed Department's reliance on the principle of "the law more favorable to the accused" in its decisions concerning field inspection fines to annul ZATCA's decisions is incorrect in its understanding of the law and its branches. In addition to the above, the principle relied upon by the Department pertains to criminal law, whereas the dispute is confined to administrative law, in which the crime is described as a "violation" and the offender is referred to as a "violator," not an accused individual. Thus, the Department's decisions regarding the field inspection fines contradict each other, as the Department states in its reasoning that "the new amendment is considered a more favorable law for the violator," and then follows by saying: "Although the general principle is that no law applies retroactively unless explicitly stated, there are exceptions, such as the enactment of a law more favorable to the accused." The esteemed Department refers to the plaintiffs at times as violators and at other times as accused individuals, which shows a contradiction in its wording. If the Department's intention is to describe the plaintiffs as violators, it is inconceivable to apply the "more favorable law" principle to them, as it is related to criminal law as explained above. It is entirely unthinkable for the Department to consider the plaintiffs as accused individuals, as there is no doubt that the correct description for them is "violators." Therefore, the exception does not apply to the facts before the esteemed Department, as ZATCA's decision can only be described as an administrative decision and does not fall under the same rules as criminal cases. Second: Requests: Based on the above, ZATCA requested the Honorable Committee to dismiss the case for the Grounds stated above and uphold ZATCA procedures subject of the case. Also, ZATCA reserves the right to provide further replies and clarifications until closing of the pleadings.

Plaintiff submitted a reply stating the following: "First, On merits: Upon reviewing ZATCA's reply memorandum and the invoices issued by ... Trading Establishment attached to ZATCA's response, we provide the following response on the substantive aspect: A. When ZATCA's representative visited the site of the establishment and examined the invoices, he reviewed the manual invoices issued by the accountant in case of computer failure or power outage, and did not examine the electronic invoices that were issued before the dates of the invoices attached to ZATCA's response. These invoices are similar to the ones I previously attached in the case. ZATCA claims that we are collecting a tax higher than the due amount, and we kindly request you to review the invoices that ZATCA photographed and attached in its response. The accountant only rounded the halalas and calculated them approximately, which is the correct and standard practice in accounting. For example: One of the invoices ZATCA attached is invoice No. ... The total before tax is 2043, but the actual value is 2043.47, and the added value is 307, which should be 306.53, and the total after tax is 2350, as shown in the invoice attached in ZATCA's response. The same applies to the other invoices attached in ZATCA's response. B. In its response, ZATCA did not apply the new regulation, which involves the reclassification of violations and the determination of fines, beginning with a warning and raising awareness of the Taxpayer before imposing a fine (attached). It is true that the fine, which they claim is a violation, was imposed before the decision dated January 30, 2022, but to this day, the violation against me has not been proven, and the case before the General Authority for Tax Committees has not yet been concluded before the decision on January 30, 2022. Second, Requests: I request the cancellation of the fine unjustly imposed on me by ZATCA, and if it is determined that there was a violation, I ask for the cancellation of the fine in accordance with the new regulation, which reclassifies violations and sets fines, starting with a warning and raising awareness of the Taxpayer before imposing a fine.

On Thursday, 21/07/2022 AD, a session was held in accordance with Procedures for Remote Litigation. Both parties wished to consider the case with participation National ID No..... In his



capacity as Attorney for the Plaintiff under POA No.; while for the Defendant appeared Mr..... National ID No..... in his capacity as ZATCA's Representative by Authorization Letter No. (.....), Dated ../../..... issued by Deputy Governor for Legal Affairs. Having asked Plaintiff about his case, he responded that he admits what is mentioned in his statement of claim submitted to General Secretariat of Zakat, Tax and Customs Committees and confirms all facts contained therein. Having asked Defendant's representative about his reply to Plaintiff claims, he maintained his answers contained in his reply memorandum. When asking both litigants if they had any other statements, they decided that they are satisfied with their earlier submissions.

Therefore, the Department decided that parties to the Case should temporarily leave the virtual room for deliberation and adjudication.

Grounds

After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH as amended, Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form, since the Plaintiff instituted his case moving to cancel the Defendant's decision regarding the imposition of a field inspection fine, based on the Value Added Tax Law and its Implementing Regulations, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Committee for Adjudication of Tax Disputes and Violations pursuant to Royal Decree No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form.

On merits, Upon reviewing the case file and the responses from both parties, it is clear that the dispute centers on Plaintiff's request for the Defendant to cancel the field inspection fine. It is established that the decision of the Board of Directors of Zakat, Tax, and Customs Authority, which came into effect on 30/01/2022, included the reclassification of violations and the fines for them. A gradation was introduced for violations related to field visits and electronic invoicing, where a warning is sufficient for a first-time violation, and progressively harsher fines apply upon repetition. Since the Board is authorized by law to issue this, and the new amendment is considered more favorable to the violator, the decision aims to achieve one of the objectives of the Law, particularly Article 48, which emphasizes the need for proportionality between the violation and the fine, and the necessity for a graduated approach to fines, including a warning before imposing any fine. Although the general principle is that no law applies retroactively, exceptions exist, such as when a law more favorable to the accused is enacted, as in this case where no final, enforceable judgment has yet been issued. Upon reviewing the case file and the responses from both parties, it is clear that the dispute again centers on Plaintiff's request to cancel the field inspection fine. The decision by the Board of Directors of Zakat, Tax, and Customs Authority, which came into effect on 30/01/2022, included the reclassification of violations and their fines. There is now a gradation for violations related to field visits and electronic invoicing, where a warning is sufficient for a first-time violation, and progressively harsher fines apply upon repetition. Since the Board is authorized by law to issue this decision, and the new amendment is considered more favorable to the violator, the decision was intended to achieve one of the objectives of the Law, especially Article 48, which mandates the proportionality between the violation and the fine, as well as the requirement to apply a graduated approach to fines and issue a warning before imposing any fine. While the general principle is that no law applies retroactively, there are exceptions, including the enactment of a law more favorable to the accused, as in this case where no final, enforceable judgment has yet been issued. The objection raised by the Defendant regarding the application of



the principle of "the more favorable law" does not affect the matter, as this principle pertains specifically to substantive criminal provisions that are linked to the principle of legality in crimes and fines. This principle is based on the ideas of social benefit and justice. From a social benefit perspective, a fine should not be imposed unless necessary for the social good. The issuance of a new law that permits an act previously criminalized or reduces an imposed fine is a recognition of the previous law's failure or excess. Therefore, there is no basis for applying a fine that the regulator, in exercising its authority, has decided to annul. Additionally, removing the financial fine imposed on the Taxpayer from this principle is unjustified and deprives the person of a legal position granted by the regulator without proper cause. Accordingly, The Department concludes that the Defendant should benefit from this decision and considers the previous action as a commitment to Defendant's rights. Should the Defendant repeat the same violation within the specified statutory periods, they will be subject to progressively harsher fines, as the Department deems appropriate.

Based on the above Grounds, and based on the Common VAT Agreement, VAT Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:

Decision:

- Acceptance of Plaintiff's case and cancellation of the fine in question based on the reasons provided.

This decision was rendered in the presence of both parties, and the date of filing the decision in the electronic system of the General Secretariat for Zakat, Tax, and Customs Committees is considered the date of delivery of the decision. The decision is deemed final and enforceable in accordance with Article (42) of Rules of Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1741)
Delivered in Case No. (V-86123-2021)

Key words:

Value-added tax - Imposition of field inspection fines - Violation of the Value Added Tax Law - The principle of non-retroactive application of any law - The principle has exceptions, including the enactment of a law more favorable to the accused - A fine should not be imposed unless necessary for social benefit.

Abstract

The Plaintiff's objection to the decision of Zakat, Tax, and Customs Authority regarding the imposition of field inspection fines, and his request for the cancellation of the Defendant's decisions - ZATCA responded as follows: Upon visiting Plaintiff's site to ensure the proper application of the Law, the inspection revealed that the Plaintiff violated the Value Added Tax Law by failing to display the VAT registration certificate at his place of work. As a result, ZATCA imposed a fine of (10,000) Saudi Riyals. The Department found that, based on the decision of the Board of Directors of Zakat, Tax, and Customs Authority, which came into effect on 30/01/2022, including the reclassification of violations and the fines for them, there is now a gradation for violations related to field visits and electronic invoicing, where a warning is sufficient for a first-time violation, with progressively harsher fines for repeated violations. Since the issuance of a new law that permits an act previously criminalized or reduces a fine is a recognition of the previous law's failure or excess, there is no basis for applying the fine. this Department ruled to: The Plaintiff's claim is accepted, and the fine in question is canceled. The decision is final and enforceable.

Instruments:

- Articles (45/3) and (48) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- Article (8/8) of [the Implementing Regulations of the Value Added Tax Law issued by ZATCA's Board of Directors No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday, 25/12/1443 AH Corresponding to 24/07/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, established under the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Decree No. (65474) dated 23/12/1439 AH convened to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Tax Committees on 13/12/2021.



Facts of this case are as follows: Mr. ..., National ID No. (...), in his capacity as owner of ... establishment, commercial registration number (...), filed a case which included his objection to the Defendant's decisions regarding the imposition of field inspection fines, No. (...) dated 26/05/2021, No. (...) No. (...) dated 15/09/2021, and No. (...) dated 26/09/2021. He requests the cancellation of the Defendant's decisions.

Having presented the statement of claim to Defendant, it responded as follows: First: In Form: On Merits: Upon reviewing the Plaintiff's case and its attachments, it is clear that the dispute is limited to the objection to the following fines: A- Fine No. (...) B- Fine No. (...) C- Fine No. (...), ZATCA summarizes its response as follows: 1/ ZATCA's representatives, on the dates indicated in the attached inspection reports, visited the Plaintiff's site to ensure the proper application of the Value Added Tax Law and its Implementing Regulations. After the inspection, it was found that the Plaintiff violated paragraph (8) of Article (8) of the Implementing Regulations of the Value Added Tax Law, which states, "The taxable resident person registered with the Authority is obligated to display the registration certificate at their main place of business and branches, in a manner visible to the public." This was due to the Plaintiff's failure to display the VAT registration certificate at his place of business. 2/ After confirming Plaintiff's violation of the provisions of the Value Added Tax Law and its Implementing Regulations as outlined above, ZATCA imposed a fine of (10,000) Saudi Riyals for each of the fines mentioned above, based on paragraph (3) of Article (45) of the Value Added Tax Law, which states: "A fine not exceeding fifty thousand (50,000) SAR shall be imposed on anyone who: 3. violates any other provision of the Law or the Regulations". This concludes Defendant's response.

The Defendant submitted an additional memorandum, which included the following: "Upon reviewing the Plaintiff's case, it is clear that the objection pertains solely to the late registration fine. ZATCA's response is summarized as follows: ZATCA stands by the arguments presented in its initial reply memorandum. The esteemed Department has consistently annulled ZATCA's decisions related to the imposition of field inspection fines, based on the decision of the Board of Directors of ZATCA to reclassify violations and the corresponding fines. Since the dates of the field inspection incidents upon which the fines were imposed are prior to the date of the decision that the Department relied on, it is clear that the well-established legal principle of non-retroactivity of laws applies here, meaning that new regulatory provisions cannot be applied to past actions unless explicitly stated in the new ruling or legal decision. Therefore, the Department's reliance on this decision is invalid, as failing to consider the defenses presented by ZATCA deprives it of its right, granted by the Law, to present defenses that clarify ZATCA's position. ZATCA further affirms that field inspection reports and invoices related to cases filed by taxpayers who submit their objections to the Secretariat are presented to the Department before the close of litigation, and the Department is required to consider them and issue its decision based on what becomes clear after hearing the defenses from both sides. Esteemed members, it is well known in legal scholarship that branches of law are classified, with criminal law, administrative law, and other branches each having their own foundation, scope, and rationale. It is inconceivable to equate a felony with a misdemeanor, or a misdemeanor with a violation. Each of these branches has its own principles for regulation, where in criminal and misdemeanor cases, a person is described as an accused, and in violations, as a violator. As a result, the rules for fines and deterrence differ between these branches. Legal systems have established that the punishment for committing a felony or misdemeanor is both physical and financial, while the fine for committing a violation is purely financial and administrative. This difference in fines is the inevitable result of a deep-rooted conviction regarding their differing natures and the principles upon which they are based. Therefore, the esteemed Department's reliance on the principle of "the more favorable law for the accused" to annul ZATCA's decisions regarding field inspection fines is incorrect in its understanding of the law and its branches. In addition, the principle relied upon by the Department pertains to criminal law, while the dispute at hand concerns administrative law, in which the crime is classified as a "violation" and the offender is described as a "violator," not an accused individual.



Thus, the Department's decisions regarding field inspection fines contradict each other. The Department's reasoning states that "the new amendment is considered a more favorable law for the violator," and then follows by saying, "Although the general principle is that no law applies retroactively unless stated, there are exceptions, such as when a more favorable law for the accused is issued." The Department describes the plaintiffs at times as violators and at other times as accused individuals, which creates a contradiction in the wording. If the Department's intention is to describe the plaintiffs as violators, it is inconceivable to apply the principle of "the more favorable law for the accused" to them, as it is linked to criminal law as detailed above. It is utterly impossible for the Department to consider the plaintiffs as accused, as there is no doubt that the correct description for them is "violators." Therefore, the exception does not apply to the facts before the esteemed Department, as ZATCA's decision can only be described as an administrative decision and is not governed by the same rules as criminal cases. Second: Requests: Based on the above, ZATCA requested the Honorable Committee to dismiss the case for the Grounds stated above and uphold ZATCA procedures subject of the case. Also, ZATCA reserves the right to provide further replies and clarifications until closing of the pleadings.

On Sunday, 24/07/2022 AD, a session was held in accordance with Procedures for Remote Litigation. The Defendant was present, while the Plaintiff was not, despite being notified of the date and manner of conducting the session. However, Defendant's Representative, ... National ID No..... in his capacity as ZATCA's Representative by Authorization Letter No. (....), Dated .././..... issued by Deputy Governor for Legal Affairs. Given the Plaintiff's absence, the Defendant requested to proceed with the case and issue a decision. After reviewing the case details and submitted documents, and since the case was ready for adjudication, the Department closed the pleadings for deliberation. In accordance with the VAT Law, its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department proceeded with issuing its decision.

Grounds

After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH as amended, Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH. the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form, Since the Plaintiff seeks through his case to cancel the Defendant's decisions regarding the imposition of field inspection fines, in accordance with Value Added Tax Law and its Implementing Regulations, and given that this dispute is a tax disputes, it falls within the jurisdiction of Committee to Adjudicate Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a person with capacity and within the prescribed statutory period, the Department accepts the Case in form.

Upon reviewing the case file and the responses from both parties, it is clear that the dispute centers on Plaintiff's request to cancel the field inspection fine imposed by the Defendant. It is established that the decision by the Board of Directors of Zakat, Tax, and Customs Authority, which came into effect on 30/01/2022, included the reclassification of violations and the corresponding fines. A gradation has been established for violations related to field visits and electronic invoicing, where a warning is sufficient for a first-time violation, and progressively harsher fines apply for repeated violations. Since the Board is authorized by law to issue such a decision, and the new amendment is considered more favorable to the violator, the decision aims to achieve one of the objectives of the Law, particularly the provision of Article 48, which mandates the need for proportionality between the violation and the fine, and also emphasizes the necessity for a graduated approach to imposing fines, with a warning before applying any fine. Although the general principle is that no



law applies retroactively, exceptions exist, including the enactment of a law more favorable to the accused, as is the case in this matter, where no final, enforceable judgment has yet been issued. Upon reviewing the case file and the responses from both parties, it becomes clear that the dispute centers on the Plaintiff's request to cancel the field inspection fine. It is established that the decision of the Board of Directors of Zakat, Tax, and Customs Authority, which came into effect on 30/01/2022, included the reclassification of violations and their fines, introducing a gradation for violations related to field visits and electronic invoicing. A warning is issued for first-time violations, with progressively harsher fines for repeated violations. Since the Board is authorized by law to issue such decisions, and the new amendment is considered more favorable to the violator, the decision aims to achieve one of the objectives of the Law, particularly Article 48, which mandates proportionality between the violation and the fine, as well as the requirement for a graduated approach to fines, including warnings before fines are imposed. While the general principle is that no law applies retroactively, exceptions exist, such as the issuance of a law more favorable to the accused, as in this case where no final, enforceable judgment has yet been issued. Defendant's objection to the application of the "more favorable law" principle in this case does not affect the outcome, as this principle pertains to substantive criminal provisions related to the legality of crimes and fines, which are grounded in the concepts of social benefit and justice. From the perspective of social benefit, a fine should not be imposed unless it is required for the social good. The enactment of a new law that permits an act previously criminalized or reduces a fine previously imposed essentially indicates the previous law's failure or excess. Therefore, there is no justification for applying a fine that the regulator, in exercising its authority, has decided to annul. Additionally, removing the financial fine imposed on the Taxpayer from this principle is unjustified and deprives the person of a legal position granted by the regulator without proper cause. Accordingly, the Department concludes that the Defendant should benefit from this decision, considering it a commitment to Defendant's rights. Should the Defendant repeat the same violation within the specified statutory periods, they will be subject to progressively harsher fines, as the Department deems appropriate. Based on the above Grounds, and based on the Common VAT Agreement, VAT Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:

Decision:

- Acceptance of Plaintiff's case and cancellation of the fine in question based on the reasons provided.

This decision was rendered in the presence of both parties, and the date of filing the decision in the electronic system of the General Secretariat for Zakat, Tax, and Customs Committees is considered the date of delivery of the decision. The decision is deemed final and enforceable in accordance with Article (42) of Rules of Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1793)
Delivered in Case No. (V-132688-2021)

Key words:

Value-added tax - Final tax assessment - Late payment fine - Re-assessment - Statutory period - Supplies exceeding the mandatory registration threshold - Dismissal of the case.

Abstract

The Plaintiff's request to cancel the decision of Zakat, Tax, and Customs Authority regarding the final assessment for the tax periods related to the year 2018, and the tax period related to the first quarter of 2019, along with the fines imposed as a result, including the late registration fine, No. (...) and dated .../.../... for the amount of (10,000) Riyals -ZATCA responded as follows regarding the Plaintiff's objection to the late registration fine: The Plaintiff did not file their claim with the Secretariat within the specified period. Regarding the Plaintiff's objection to the tax periods related to the year 2018: ZATCA stated that there is no declaration filed by the Plaintiff for the year 2018. Therefore, ZATCA requests the dismissal of this item. Regarding Plaintiff's objection to the tax period related to the second quarter of 2019: ZATCA asserted that the Plaintiff did not submit their objection as required. ZATCA's decision to re-assess the first quarter of 2019 and impose the related fines was issued on (23/05/2022), and the Plaintiff did not object to ZATCA within the specified statutory period mentioned above. Therefore, ZATCA's decision is final and cannot be challenged before any other body. The regulatory provisions stipulate that if the case is filed by an authorized party within the prescribed period, the case must be accepted in form. The Department concluded that: since the Plaintiff limited their claim in the latest memorandum to the late registration fine, No. (...), dated ..., for the amount of (10,000) Riyals, based on the Value Added Tax Law and its Implementing Regulations, and since it is established that the supplies exceeded the mandatory registration threshold as stated in the facts, and the reason given by the Plaintiff does not justify the failure to register, Defendant's decision is valid. Therefore, the Department rules to dismiss the case. Conclusion: The case is accepted in form, but the Plaintiff's claim is dismissed. The decision is final and enforceable.

Instruments:

- Articles (2) and (3) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday, 08/02/1444 AH Corresponding to 04/09/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, established under the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Decree No. (65474) dated 23/12/1439 AH convened to consider the



aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Tax Committees on 03/06/2022.

The facts of this case can be summarized as follows: ..., with National ID number (...), filed a case which included her objection to the Defendant's decision regarding the final assessment for the tax periods related to the year 2018, and the tax period related to the first quarter of 2019, along with the resulting fines, including the late registration fine, No. (...) dated ..., for the amount of (10,000) Riyals, and she requests the cancellation of the Defendant's decision.

On Thursday, 28/07/2022 AD, a session was held in accordance with Procedures for Remote Litigation. Both parties wished to consider the case with participation of the Plaintiff/..... on behalf of herself by virtue of ID No....., and Defendant's Representative National ID No..... in his capacity as ZATCA's Representative by Authorization Letter No. (.....), Dated ..., When asked about the case, the Plaintiff responded according to what was stated in the regulations submitted to the General Secretariat of the Tax Committees, adhering to what was mentioned therein. When asked about the Defendant's response, the representative answered that they request the Plaintiff to specify their demands, as the case is unclear. When asked about the periods they are objecting to, the Plaintiff answered that the periods are 2018, 2019, and 2020, along with the resulting fines. Based on that, the Department requested the Plaintiff to file their case by specifying the tax period under dispute, the related fine, and the reasons for that, along with supporting documents. The hearing was postponed to 14/08/2022 at 1:00 PM, with the Plaintiff required to submit what was requested before 03/08/2022, and the Defendant required to submit their response before 09/08/2022.

The Plaintiff submitted a reply memorandum, stating: "The amount disputed is the total principal tax amount: (22,117), and I also object to the resulting fines resulting, in addition to the fine for late registration (10,000), reference number (...). First objection: I object to the 2018 period because the employee told me that it was not important and advised me to focus on 2019. Therefore, since I did not provide evidence for it, my salary and other personal expenses were counted as part of sales, causing me to exceed the mandatory registration threshold due to my ignorance of the requirement to submit evidence for that year and that I would be held accountable for it. (All evidence for 2018 is attached.) Grounds I did not exceed the mandatory threshold (375,000) SAR for VAT registration in 2019-2020, as well as 2018. However, because I was not informed about the importance of submitting evidence for that year, all amounts deposited into my account in that year were counted as revenue, causing me to exceed the mandatory threshold. As a result, I was registered and fined based on 2018. Therefore, I kindly request that my assessment be reconsidered and that the evidence I submitted for that year (2018) be reviewed. Evidence of Employment Contract: Attachment Name (Document Description): My employment contract with ... Salary Evidence for 2018: Bank 5 Transfer evidence dated 04/02/2018 for an amount of 22,704 – Attachment Name (Document Description): Salary payment receipt for January 2018. Bank 5 Transfer evidence dated 04/03/2018 for an amount of 22,682. - Attachment Name (Document Description): Salary payment receipt for February 2018. Bank 5 Transfer evidence dated 29/03/2018 for an amount of 24,335. - Attachment Name (Document Description): Salary payment receipt for March 2018. Bank 5 Transfer evidence dated 29/04/2018 for an amount of 32,448 SAR. - Attachment Name (Document Description): Salary payment receipt for April 2018. Bank 5 Transfer evidence dated 31/05/2018 for an amount of 62,883 (two months' salary in advance with May's portion). - Attachment Name (Document Description): Salary payment receipt for May and June 2018. Bank 5 Transfer evidence dated 31/07/2018 for an amount of 14,715 SAR. - Attachment Name (Document Description): Salary payment receipt for July 2018. Bank 5 Transfer evidence dated 02/09/2018 for an amount of 23,993. - Attachment Name (Document Description): Salary payment receipt for August 2018. Bank 5 Transfer evidence dated 01/10/2018 for an amount of 21,586. - Attachment Name (Document Description): Salary payment receipt for September 2018. Bank 4 Transfer evidence dated 03/11/2018 for an amount of 44,339. - Attachment Name (Document Description): Salary payment receipt for October 2018. Bank 4



Transfer evidence dated 01/12/2018 for an amount of 37,940 SAR. - Attachment Name (Document Description): Salary payment receipt for November 2018. Bank 4 Transfer evidence dated 31/12/2018 for an amount of 46,744. - Attachment Name (Document Description): Salary payment receipt for December 2018. Evidence of Commercial Registration for Establishment My salaries for the year 2018 were transferred through the bank account of the establishment. - Attachment Name (Document Description): (Commercial registration proving that... was for... in the first, second, and third quarters of 2018, my salary was transferred through the bank account of the establishment). Bank 5 Transfer evidence for an amount of (27,982) dated 25/10/2018, stating that it was for various expenses of... I transferred it from my personal account and it was returned to me, with the conversation attached to prove that. - Attachment Name (Document Description): (Amount of expenses for work that I transferred from my personal account and was returned to me). Bank 5 Transfer evidence for (1,676) SAR dated 28/10/2018, indicating that the amount was returned to me because I had previously transferred and paid it from my account to her restaurant... (...) It was returned to me, and the conversation proving this is attached. - Attachment Name (Document Description): Request for... I transferred it from my account and it was later refunded to me). Bank 5 Transfer evidence for an amount of (2,700) dated 25/05/2018, indicating that I paid it from my account and made a declaration for her restaurant account... in ... I paid it from my account and it was refunded to me. - Attachment Name (Document Description): (Since I work for social media and have experience in advertising methods at company and ... (...) (Paid advertisement) the management of... asked for my assistance in creating the advertisement for them (the amount is not mine, but for the advertisement, to be paid to company). and ...) I pay from my account, and later I am reimbursed for the advertisement amount I made). Bank 5 Transfer evidence for an amount of (4,700) dated 30/07/2018, indicating that I paid it from my account and created advertisements for her restaurant... in ... I paid it from my account and it was refunded to me. - Attachment Name (Document Description): Since I work for social media and have experience in advertising methods at company and ... (...) (Paid advertisement) the management of... asked for my assistance in creating the advertisement for them (the amount is not mine, but for the advertisement, to be paid to and Company). I pay from my account, and later I am reimbursed for the advertisement amount I made. Second Objection: For the first quarter of 2019. Reference number of the declaration... The disputed tax amount: (5,332) SAR, along with the resulting fines. Grounds New evidence has been provided for some amounts that I was unable to prove during the given deadline because the work phone containing the evidence was not with me due to my resignation from the job and handing it over to them. I only received it on the last day of the deadline. Bank 1 Transfer evidence for an amount of (5,000) SAR dated 02/02/2019, indicating that the transfer was not mine and was sent to... The conversation is attached to prove that she asked me to transfer it to my account. - Attachment Name (Document Description): Proof that the 5,000 SAR was for... and not mine, with the attached conversation proving she asked me to transfer it to my account and I later transferred it to her. I should not be held accountable for this. Bank 5 Transfer evidence for an amount of (10,000) SAR dated 19/03/25, stating that it was for an advertisement in... (at company). The amount was later refunded to them. Two conversations are attached, proving their request for me to do the advertisement, and another incident with the reimbursement of the amount to them on similar dates: - Attachment Name (Document Description): Proof of conversation where the management of... asked me to do the advertisement for them, and later the remaining amount of 10,000 SAR was refunded to them. I should not be held accountable for this. - Attachment Name (Document Description): Proof that the 10,000 SAR amount was refunded to them after the advertisement was done for them on... and... (The amount is not mine; it was for... and...). Third Objection: For the second quarter of 2019. Reference number of the declaration: (For your information: A separate case has been filed for the reference number of the declaration with number...) The disputed tax amount: (4,479) SAR, along with the resulting fines. Grounds New evidence has been provided for some amounts that I was unable to prove during the given



deadline, because the work phone containing the evidence was not with me due to my resignation from the job, and I only received it on the last day of the deadline. Bank 4 Transfer evidence, dated 05/01/2019, indicating that it was a debt and was repaid to me. Attachments are included in case number (132792-2022-(V)). - Attachment Name (Document Description): Proof of acknowledgment of the debt received. - Attachment Name (Document Description): Conversation proving that I lent it to her. - Attachment Name (Document Description): Conversation proving that I lent it to her. Therefore: My total income in 2018, after considering the provided evidence: Less than 200,000 SAR. My total income in 2019, after considering the provided evidence: (289,621) SAR. My total income in 2020: (85,505) SAR. The Plaintiff concluded with the following requests: 1. I kindly request a reconsideration of my assessment and fair treatment, as I did not exceed the mandatory VAT registration threshold in 2018, 2019, or 2020, and I should not be subjected to mandatory VAT registration or fines. I was forced to pay the late registration fine out of fear of sanctions because the fine was issued before the declarations. I request a refund of the late registration fine (10,000 SAR), noting that I have filed a separate case regarding it under case number 135639-2022-V." End of Answer.

The Defendant responded with a memorandum of reply, stating the following: "First: In form: 1. Regarding Plaintiff's objection to the late registration fine: We inform the esteemed committee that the Plaintiff did not file her case with the General Secretariat within the specified time frame according to the provisions of Article (2) of Tax Dispute and Violation Committee Procedures. Since ZATCA's decision to reject the objection was issued on 28/06/2022, while the Plaintiff filed her case with the General Secretariat on 03/06/2022, the case is therefore premature in accordance with the provisions of paragraph (2) of Article (3) of Tax Dispute and Violation Committee Procedures. 2. Regarding Plaintiff's objection to the tax periods for the year 2018: ZATCA informs you that no declaration has been issued for the Plaintiff for the year 2018. Since no decision has been issued by ZATCA regarding these periods, ZATCA requests that this item be dismissed. 3. Regarding Plaintiff's objection to the tax period for the second quarter of 2019: We inform you that the Plaintiff did not submit her objection as stipulated in Article (49) of the VAT Law and Article (3) of the Rules of Procedure for the Tax Violation and Dispute Settlement Committees. Since ZATCA issued a decision to re-evaluate the first quarter of 2019 and impose the related fines on 23/05/2022, and the Plaintiff did not object to ZATCA within the statutory period mentioned above, ZATCA's decision is therefore final and cannot be contested before any other entity. 4. Regarding Plaintiff's objection to the tax period for the second quarter of 2019: We inform you that the Plaintiff did not submit her objection as stipulated in Article (49) of the VAT Law and Article (3) of the Rules of Procedure for the Tax Violation and Dispute Settlement Committees. Since ZATCA issued a decision to re-evaluate the second quarter of 2019 and impose the related fines on 23/05/2022, and the Plaintiff did not object to ZATCA within the statutory period mentioned above, ZATCA's decision is therefore final and cannot be contested before any other entity. ZATCA's representative concluded their response by requesting that the case not be accepted on formal Grounds. End of Answer.

On Monday, 15/08/2022 AD, a session was held in accordance with Procedures for Remote Litigation. Both parties wished to consider the case with participation of Plaintiff on behalf of herself by virtue of ID No...., and Defendant's Representative National ID No..... in his capacity as ZATCA's Representative by Authorization Letter No. (.....), Dated ../../..... issued by the Deputy Governor for Legal Affairs, and upon questioning both parties about any additional submissions, they stated that they rely on their previous submissions. Accordingly, the Department decided to postpone the case for deliberation and to issue the decision in the session on 04/09/2022 at 1:00 PM.

On Sunday, 04/09/2022, the session was held according to the remote litigation procedures, and both parties wished to proceed with the case, with the participation of those who had attended previously. When asking both litigants if they had any other statements, they decided that they are



satisfied with their earlier submissions. Therefore, the Department decided that parties to the Case should temporarily leave the virtual room for deliberation and adjudication.

Grounds



After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH as amended, the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form,

Since the Plaintiff has limited her case in her latest memo to the late registration fine, number (...), dated 21/04/2022, amounting to (10,000) SAR, based on the VAT Law and its Implementing regulations, and since this dispute is a tax dispute, it falls under the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes in accordance with Royal Decree No. (26040) dated 21/04/1441H. Since the case was filed by a party with standing and within the legally prescribed period, the Department is therefore required to accept the case in form.

In Merits,

since the Plaintiff limited their claim in the latest memorandum to the late registration fine, No. (...), dated 21/04/2022, amounting to (10,000) SAR, based on the VAT Law and its Implementing regulations, and since it is established that the supplies exceeded the mandatory registration threshold as stated in the facts, and since the justification provided by the Plaintiff does not constitute a valid reason for failing to register, it means that the decision made by the Defendant is correct. Therefore, the case should be dismissed.

Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Department, after unanimous deliberation, decided:

Decision:

– To dismiss Plaintiff case.

This decision was issued in the presence of both litigants. The Department has set a period of (30) days for the receipt of a copy of the judgment, and the Department may extend the delivery period for another (30) days as it deems appropriate.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1813)
Delivered in Case No. (V-85074-2021)

Key words:

Value Added Tax - Plaintiff's data with other parties - The presumption of correctness in decisions related to health and safety, and the burden of proof lies with the party challenging it - The Taxpayer is obligated to register according to the economic activities conducted in the Kingdom - Exceeding the supply threshold for mandatory registration - Dismissal of the case.

Abstract

The Plaintiff's request to cancel the decision of Zakat, Tax, and Customs Authority regarding the imposition of the late registration fine, number (...), dated 22/09/2021, for an amount of (10,000) SAR - ZATCA responded as follows: The presumption is that the decision is correct and valid, and it is the responsibility of anyone claiming otherwise to prove their case by referring to the Plaintiff's data with other parties (.... Bank). It was found that the Plaintiff's supplies exceeded the mandatory registration threshold, thus justifying the imposition of the late registration fine on the Plaintiff... It was established by the Department that the Plaintiff exceeded the mandatory registration threshold after ZATCA referred to the Plaintiff's data with Bank..., and the Plaintiff failed to prove the validity of her claim despite the opportunity given to her - Therefore: The case is dismissed - the decision is final and enforceable.

Instruments:

- Articles (1), (50/1) and (2) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. 51 dated 03/05/1438 AH.](#)
- Articles (3/1) and (41) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- Articles (3/1), (6) and (56) of [the Implementing Regulations of Value Added Tax Law issued by Decision of the Board of Directors of the General Authority of Zakat and Income \(currently ZATCA\) No. \(3839\) dated 14/12/1438 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 09/02/1444 AH Corresponding to 05/09/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, established under the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/02/1425 AH as amended, and constituted pursuant to Royal Decree No. (65474) dated 23/12/1439 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Tax Committees on 05/12/2021.



Facts of this case are as follows: Mr. ..., National ID No., in his capacity as owner of ... establishment, for foodstuffs, commercial registration number (...), filed a statement of claim including an objection to the decision of the Defendant regarding the imposition of the late registration fine, number (...). dated ..., for the amount of (10,000) Riyals, and she requests the cancellation of the Defendant's decision.

Having presented the statement of claim to Defendant, it responded as follows: "First: On Merits: 1. The decision is presumed to be valid and sound, and whoever claims otherwise shall provide proof supporting his claims. 2. Paragraph (2) of Article (50) of the Common VAT Agreement for the Gulf Cooperation Council (GCC). 3. Article 6 of the Implementing Regulations of Value Added Tax Law. Furthermore, Article (56) of the Implementing Regulations of the VAT Law grants ZATCA the right to obtain any information directly and continuously that is directly related to the tax and is held by a third party. Upon reviewing the Plaintiff's data with other parties (... Bank), it was found that their supplies exceeded the mandatory registration threshold. 4. Based on the above, it is clear that the imposition of the late registration fine on the Plaintiff is valid, based on Article (41) of the VAT Law. The Plaintiff concluded her memorandum with a request to dismiss the case. End of Answer.

On Monday, 05/09/2022, the session was held according to the remote litigation procedures. The Defendant attended, but the Plaintiff did not attend despite being notified of the session date and the method of its conduct. The representative of the Defendant, ... participated. National ID No..... in his capacity as ZATCA's Representative by Authorization Letter No. (....), Dated .././..... issued by Deputy Governor for Legal Affairs. Given the Plaintiff's absence, the Defendant requested to proceed with the case and issue a decision. Accordingly, the Department decided to temporarily dismiss both parties from the remote session for deliberation and decision issuance.

Grounds



After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH as amended, Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH. the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form, Since the Plaintiff aims in her case to cancel the Defendant's decision regarding the imposition of a late registration fine in the amount of (10,000) SAR, based on the Value Added Tax Law and its Implementing Regulations, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Tax Violations and Disputes Committee pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form. On merits, upon the Department's review of the case documents and the responses of both parties, after being given sufficient time to present and submit their arguments, it is clear that the dispute lies in the imposition of the late registration fine, amounting to (10,000) SAR, due to the delay in VAT registration. The Plaintiff requests cancellation of the fine, arguing that the mandatory registration threshold was not met. Article (1) of the Common VAT Agreement for the Gulf Cooperation Council States stipulates that: "The minimum value of actual supplies, upon which a Taxpayer becomes obligated to register for tax purposes," Paragraph (1) of Article (50) of the Common VAT Agreement for the Gulf Cooperation Council States stipulates that: "A taxable person shall be required to register for the purposes of implementing this Agreement if: A. He is a resident in any of the member states, B. His actual annual supplies in that member state exceed or are expected to exceed the mandatory registration threshold." "A Taxable Person shall be obligated to register according to the Economic Activities carried out by the Taxable Person in the Kingdom and in accordance with the provisions stipulated in the Agreement". Paragraph (1) of



Article (3) of the Implementing Regulations of the VAT Law provides: “Any resident person in the Kingdom who is not registered with the Authority must, at the end of each month, calculate the value of their supplies over the preceding twelve months in accordance with the requirements stipulated in the Agreement. If this value exceeds the mandatory registration threshold specified in the Agreement, the person must submit a registration application to the Authority within thirty (30) days from the end of that month, in accordance with Article 8 of these Regulations.” Furthermore, Article (41) of the VAT Law states: “Any Person who has not applied for registration within the period specified in the Regulations shall be fined ten thousand (10,000) SAR”.

Plaintiff's request to cancel the fine is based on the claim that she did not exceed the mandatory registration threshold. However, it was found that she did exceed the threshold, based on ZATCA's review of the Plaintiff's data with Bank. Since the Plaintiff failed to prove the validity of her claim despite the opportunity provided to her, this constitutes a violation of the provisions of paragraph (1) of Article (3) of the Implementing regulations of the VAT Law. This means that the action taken by the Defendant (ZATCA) to impose the late registration fine of (10,000) SAR is valid, as stipulated in Article (41) of the VAT Law, and therefore, the case should be dismissed. Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department unanimously decided after deliberation:

Decision:

- Dismissal of the case.

This decision was issued in the presence of both parties in accordance with the provisions of Article 21 of Tax Dispute and Violation Committee Procedures set a period of thirty (30) days for the receipt of a copy of the decision and may extend the deadline for additional thirty (30) days as it deems appropriate. The parties to the case may request its appeal within (thirty) days from the day following the date specified for receipt thereof. In the event that objection is not submitted, it shall become final and enforceable after expiry of this period.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1815)
Delivered in Case No. (V-85023-2021)

Key words:

Value Added Tax - Imposition of Late Payment fines - Delay Duration Not Exceeding One Day - No Email or SMS Notification of the Transfer - System Error - Statutory Duration.

Abstract

The Plaintiff requests the cancellation of the decision of Zakat, Tax, and Customs Authority regarding the imposition of late payment fines for the tax period of the third quarter of 2021 and seeks the cancellation of the imposed fines. ZATCA responded as follows: Based on the inspection and evaluation of the tax period in question, a late payment fine was imposed for the relevant tax period. It was established by the Department that the final deadline for the Plaintiff to pay the due tax was 31/10/2021, whereas part of the tax was paid on 01/11/2021. The Defendant concluded that the Plaintiff did not adhere to the statutory period. The Plaintiff insisted that the payment was made on the due date, 31/10/2021. It is established that the transfer was made on that date through the available channel provided by ZATCA, and it left the Plaintiff's possession for the benefit of ZATCA. Since it did not reach ZATCA on the same day, the Taxpayer was not at fault. Furthermore, the delay, if it occurred, did not exceed one day. Therefore, the Department decided to accept the case and cancel the fine in question. Conclusion: The company's claim is accepted, and the fine in question is canceled. The decision is considered final and enforceable.

Instruments:

- Article (43) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Article (59/1) of [the Implementing Regulations of the Value Added Tax Law issued by decision of ZATCA Board No. \(3839\) on 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 09/02/1444 AH Corresponding to 05/09/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, established under the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Decree No. (65474) dated 23/12/1439 AH convened to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Tax Committees on 05/12/2021.

The facts of this case are summarized as follows: Company, with commercial registration number (...), filed a statement of claim through ..., national ID number (...), in his capacity as the legal representative of the company, according to the incorporation contract. The claim includes



an objection to Defendant's decision regarding the imposition of late payment fines for the tax period of the third quarter of 2021 and requests the cancellation of the imposed fines.

Having presented the statement of claim to Defendant, it responded as follows: "First: On Merits: As a result of the inspection and evaluation of the tax period in question, a late payment fine was imposed for the relevant tax period, in accordance with the provisions of Article (43) of the VAT Law. The Plaintiff concluded her memorandum with a request to dismiss the case. End of Answer. The Plaintiff's representative responded with a memorandum stating: Referring to the reply memorandum -1- received from Zakat, Tax, and Customs Authority without a date, we would like to inform you that the memorandum does not contain any evidence or documented documents proving that the tax was not paid within the specified period, noting that we have provided you with all the supporting documentation to substantiate our position of paying the tax before the end of the prescribed period. We would like to repeat our legitimate request for a reconsideration of the fine issued against us; the tax for the third quarter of 2021 was fully paid in installments, due to the bank payment system's maximum daily payment limit of 200,000 SAR. In fact, the payments were made as follows: First payment of 200,000.00 SAR on 24/10/2021, Second payment of 35,917.96 SAR on 28/10/2021, Third payment of 200,000.00 SAR on 30/10/2021, Final payment of 200,000.00 SAR, with an attempt to pay on 31/10/2021, twice consecutively. The system indicated an error from the payment system (Sadad), after which the transfer was accepted and appeared in the Zakat and Tax Authority's Law the next morning, 01/11/2021. The payment was accepted, but it seems there was an issue with the Zakat and Tax Law, which resulted in no email or SMS notification being received for the transfer, as is usual with all previous transfers (we received the email and SMS three days after the payment). This, in our opinion, indicates that there was a system malfunction, and if the delay is considered a delay, it was due to circumstances beyond our control and was less than one business day. We consider the 5% fine on the amount to be very large. We would also like to inform you that we have consistently adhered to the timely payment of taxes since the introduction of VAT, and we hope you will kindly reconsider our request and exempt us from the fine." End of Answer.

The Defendant responded with a memorandum of reply, stating the following: "First: On Merits: "The principle in decision-making is validity and soundness, and whoever claims otherwise must provide evidence to support their case. Regarding the late payment fine imposed on the Plaintiff for the tax period of the third quarter of 2021, paragraph (1) of Article (59) of the Implementing regulations of the VAT Law stipulates that: Since the Plaintiff's final deadline for paying the due tax for her tax period was 31/10/2021, while part of the due tax payment of (200,000) SAR was made to ZATCA on 01/11/2021, it is clear that the Plaintiff did not adhere to the statutory period, and therefore ZATCA's decision to impose the fine is valid. The Plaintiff concluded her memorandum with a request to dismiss the case. End of Answer.

On Monday, 05/09/2022, the session was held according to the remote litigation procedures, and both parties wished to proceed with the case, with the participation of the Plaintiff ..., holding National ID No., in his capacity as the legal representative of the company, and participation of the Defendant's representative, ... National ID No. in his capacity as ZATCA's Representative by Authorization Letter No. (....), Dated ../../..... issued by Deputy Governor for Legal Affairs. Having asked Plaintiff about his case, he responded that he admits what is mentioned in his statement of claim submitted to General Secretariat of Zakat, Tax and Customs Committees and confirms all facts contained therein. Having asked Defendant's representative about his reply to Plaintiff claims, he maintained his answers contained in his reply deposited in the case file. When asking both litigants if they had any other statements, they decided that they are satisfied with their earlier submissions. Therefore, the Department decided that parties to the Case should temporarily leave the virtual room for deliberation and adjudication.



Grounds

After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH as amended, the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form, Since the Plaintiff's objective in her case is to cancel the Defendant's decision regarding the imposition of late payment fines for the tax period of the third quarter of 2021, based on the VAT Law and its Implementing regulations, and since this dispute is a tax-related dispute, it falls under the jurisdiction of the Tax Violation and Dispute Settlement Committee in accordance with Royal Decree No. (26040) dated 21/04/1441 AH. Furthermore, since the case was filed by a party with standing and within the prescribed legal period, the Department is therefore required to accept the case in form.

On merits, ZATCA argued that the Plaintiff's final deadline for paying the due tax for her tax period was 31/10/2021, while part of the due tax payment of (200,000) SAR was made to ZATCA on 01/11/2021, concluding that the Plaintiff did not adhere to the prescribed statutory period. The Plaintiff maintained that she made the payment on the due date, 31/10/2021, and it is established that the transfer was made on that date through the channel provided by ZATCA and left her possession for the benefit of ZATCA. Since it did not reach ZATCA on the same day, this was not Taxpayer's fault. Furthermore, the delay, if it occurred, did not exceed one day, which led the Department to accept the case and cancel the fine in question.

Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Department, after unanimous deliberation, decided:

Decision:

– Company's claim is accepted, and the fine subject to objection is annulled.

This decision was issued in the presence of both litigants. The Department has set a period of (30) days for the receipt of a copy of the judgment, and the Department may extend the delivery period for another (30) days as it deems appropriate. The decision shall be final and enforceable in accordance with the provisions of Article 42 of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax
Violations and Disputes in Dammam

Decision No. (VD-2022-1819)
Delivered in Case No. (V-
89068-2021)

Key words:

Value Added Tax - Field Inspection fine - The principle of non-retroactive application of laws - Exceptions to this principle, including the issuance of laws more favorable to the Defendant - Progressive fines related to field visits and electronic invoicing.

Abstract

The Plaintiff's objection to the decision of Zakat, Tax, and Customs Authority regarding the imposition of the field inspection fine, number (...), dated .../.../2021, in the amount of (10,000) SAR, resulting from the absence of the tax number on the invoice, and requesting the cancellation of the imposed fine - ZATCA responded as follows: Upon visiting the Plaintiff's site and inspecting the simplified invoices provided by the Plaintiff to ensure compliance with the provisions of the VAT Law and its Implementing regulations, it was found that the invoices did not meet the requirements for simplified invoices. Upon reviewing the invoices that were confiscated, it was found that the tax number written on them was incorrect, which led to the imposition of the fine. It was established by the Department that with the issuance of the decision of the Board of Directors of Zakat, Tax, and Customs Authority, there is now a progressive approach regarding violations related to field visits and electronic invoicing. The first violation results in a warning for the Taxpayer, and fines progressively increase in case of repetition. The general principle is that no law applies retroactively, but exceptions exist, including when a law more favorable to the Defendant is issued. Accordingly, there is no justification for applying the fine as decided by the regulator, who has the authority to change it. Furthermore, excluding the financial fine imposed on the Taxpayer from this principle is unjustified and deprives the person of a legal status granted to them by the regulator without proper justification. Therefore, the Department concludes that the Plaintiff benefits from this decision, and what has occurred should be considered a commitment on their part. If the same violation occurs again within the specified statutory periods, the Taxpayer would be subject to progressively harsher fines, which the Department determines. This Department ruled to Plaintiff's case is accepted, and the fine in question is canceled based on the reasons provided. The decision is considered final and enforceable.

Instruments:

- Article (45/3) of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- Article (8/53/b) of [the Implementing Regulations of the Value Added Tax Law issued by GAZT's Board of Directors No. \(3839\) dated 14/12/1438 AH.](#)

Facts:





Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday, 08/02/1444 AH Corresponding to 04/09/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, established under the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Decree No. (65474) dated 23/12/1439 AH convened to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Tax Committees on 27/12/2021.

The facts of this case are summarized as follows: Mr. ..., holder of National ID No., in his capacity as attorney for the Plaintiff, for/..., with national ID number (...), filed a statement of claim including an objection to Defendant's decision regarding the imposition of the field inspection fine, number (...), dated .../07/2021, in the amount of (10,000) SAR, resulting from the absence of the tax number on the invoice, and requests the cancellation of the imposed fine.

Having presented the statement of claim to Defendant, it responded as follows: First: In Form: On Merits: The representative of ZATCA visited the Plaintiff's site and inspected the simplified invoices provided by the Plaintiff to ensure proper application of the provisions of the VAT Law and its Implementing regulations. After the inspection, it was found that the invoices did not comply with the requirements for simplified invoices stated in paragraph (b) of paragraph eight of Article 53 of the Implementing regulations of the VAT Law. Upon reviewing the invoices that were seized, it was found that the tax number written on them was incorrect. After confirming the Plaintiff's violation of the provisions of the VAT Law and its Implementing regulations as outlined above, ZATCA imposed a fine of (10,000) SAR on the Plaintiff, based on paragraph three of Article 45 of the VAT Law. In addition, Defendant concluded its memorandum, requesting Department to dismiss the Case. End of Answer.

The Defendant responded with a memorandum of reply, stating the following: "The esteemed Department has consistently decided to annul ZATCA's decisions regarding the imposition of field inspection fines, based on the decision of the Board of Directors of ZATCA to reclassify the violations and the fines imposed for them. Since the dates of the field inspection incidents that led to the imposition of fines are prior to the date of the decision on which the Department relied, and as it is well known, the established legal principle is that laws cannot have retroactive effect. This means that new regulatory provisions do not apply to past events unless explicitly stated in the new judgment or regulatory decision. Therefore, the Department's reliance on this principle is invalid, as not considering the defenses submitted by ZATCA infringes on its right, guaranteed by the law, to present defenses that would clarify its position. ZATCA further emphasizes that field inspection reports and invoices related to cases filed by taxpayers who submit objections to the Secretariat should be submitted to the Department before the closure of the hearing, and the Department is required to review them and issue its decision based on what is clarified after hearing the arguments of both parties. Your Excellencies, it is well known that legal scholars classify the branches of law, acknowledging the existence of criminal, administrative, and other branches, each with its own foundation, scope, and cause. It is unthinkable to equate a felony with a misdemeanor or a violation with an infraction. Each of these branches has its own principles, and in criminal and misdemeanor law, a person is described as a Defendant, while in violation cases, they are described as a violator. Consequently, the rules for fines and sanctions vary between branches. The regulations have established that the fine for felonies and misdemeanors is both physical and financial, while the fine for violations is only financial and administrative. This variation in fines is an inevitable result of the inherent difference in their nature and the principles that underpin them. Therefore, the Department's reliance on the principle of "the law favorable to the Defendant" in its decisions regarding the annulment of ZATCA's decisions related to field inspection fines has misinterpreted the law and its branches. Additionally, the principle cited by the Department applies to criminal law, whereas the dispute is confined to administrative law, where the offense is described as a "violation" and the perpetrator is referred to as a "violation," not a Defendant. Thus,



the Department's decisions regarding the field inspection fines are inconsistent, as the Department reasons that "the new amendment is considered as the most favorable law for the violator," followed by stating, "Although the general principle is that no Law's provisions apply retroactively unless explicitly stated, there are exceptions, including the issuance of a law more favorable to the Defendant." The Department alternates between describing the plaintiffs as violators and defendants, which highlights the contradiction in its reasoning. If the Department intended to classify the plaintiffs as violators, it cannot simultaneously consider them defendants, as it is indisputable that they should be described as violators. Consequently, the exception does not apply to the cases before the esteemed Department, as ZATCA's decision can only be classified as an administrative decision, not subject to the same considerations as criminal cases." The Plaintiff concluded their memorandum with a request to dismiss the case. End of Answer.

Plaintiff's representative responded with a memorandum stating: "The violation was recorded on .../07/2021, which was the period during which we were preparing the program for the electronic invoicing system. The invoice printing format relied upon by the inspector was the experimental format, and the program manager was conducting trials from a remote device. The invoice was mistakenly printed using the experimental format (attached are pictures of the official invoice template and the canceled experimental one, both printed on the same date). It is unimaginable that we would have any interest in removing a zero from among the four significant zeros, as the invoice contains all the important details, including the tax amount, and all amounts are correct. Since the burden of proof for lack of intent lies with the Taxpayer, we have outlined the circumstances of the error, which was not intentional, and there was no bad faith or any attempt at tax evasion. It is also evident that the error was not severe, and it had no impact on any of the parties involved. According to Article 48, which stipulates that the fine should be proportionate to the violation and its severity and consequences, even in cases of intentional tax evasion (the worst-case scenario), the fine should not exceed three times the value of the goods involved in the evasion. Moreover, the inspector could have issued a notice, warning, or caution, as other government bodies do during inspections, especially when the error is not significant. We provide services for public health and face continuous losses due to the pandemic and lockdown conditions. Our tax declarations are fully paid on time. Since the state's original goal is regulation and development, not penalizing those with good intentions, we kindly request that Your Honor cancel this unjust fine. Attached to the original case are a copy of the official invoice, the canceled invoice, image number 1 and 2, and a screenshot showing the correct and canceled formats, image number 3. All other invoice conditions are compliant, showing the tax rate and total amount, which are essential components of the simplified tax invoice that serves as proof of the amount and tax for the customer." End of Answer.

On Sunday, 04/09/2022, the session was held according to the remote litigation procedures. The Defendant attended, but the Plaintiff did not attend despite being notified of the session date and the method of its conduct. The representative of the Defendant, ..., with national ID number (...), in his capacity as a representative of Zakat, Tax, and Customs Authority based on the authorization letter number (...), dated ..., issued by the Deputy Governor for Legal Affairs, was present. When confronted with this, he requested to proceed with the case and issue a decision. Therefore, the Department decided to adjourn the session for deliberation and issue a decision.

Grounds

After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH as amended, Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH. the Common VAT Agreement of GCC States, and all relevant laws and regulations.



In form: Since the Plaintiff aims in her case to cancel Defendant's decision regarding the imposition of a field inspection fine, resulting from the absence of the tax number on the invoice, in accordance with Value Added Tax Law and its Implementing Regulations, and given that this dispute is a tax disputes, it falls within the jurisdiction of Committee to Adjudicate Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a person with capacity and within the prescribed statutory period, the Department accepts the Case in form.

On merits, upon reviewing the case documents and the responses of both parties, it is clear that the dispute lies in Plaintiff's request to cancel the field inspection fine imposed by the Defendant. It is established that the decision of the Board of Directors of Zakat, Tax, and Customs Authority was issued and became effective as of 30/01/2022, which included the reclassification of violations and the fines imposed for them. A progressive approach has been adopted for violations related to field visits and electronic invoicing, where a warning is given to the Taxpayer for a first-time violation, and fines increase with repetition. Since the Council is authorized by the law to issue such decisions, and since the new amendment is considered a law more favorable to the violator, and since the decision aims to achieve one of the objectives of the law—particularly the provisions of Article 48, which mandates the need to align the violation with the fine, as well as the necessity of progressively imposing fines and issuing warnings before any fines are applied, it is clear that although the general principle is that no law applies retroactively, exceptions exist, such as when a law more favorable to the Defendant is issued, as is the case in this matter, which has not yet been subject to a final enforceable judgment. Upon reviewing the case documents and the responses of both parties, it is evident that the dispute concerns the Plaintiff's request to cancel the field inspection fine imposed by the Defendant. It is established that the decision of the Board of Directors of Zakat, Tax, and Customs Authority, which came into effect as of 30/01/2022, included the reclassification of violations and their fines. A progressive approach was adopted for violations related to field visits and electronic invoicing, where a first-time violation is met with a warning, and fines escalate with repetition. Since the Council is authorized to issue this decision under the law, and since the new amendment is considered a more favorable law for the violator, and since the decision has achieved one of the law's objectives, particularly the provisions of Article (48), which mandates the alignment of violations with fines, as well as the need to progressively impose fines and issue warnings before applying any fines, it is clear that while the general principle is that no law applies retroactively, exceptions exist, including when a law more favorable to the Defendant is issued, as in this case, which has not yet been subject to a final and enforceable judgment. The Defendant's argument regarding the application of the principle of the more favorable law does not affect the decision, as it is known that this principle applies specifically to substantive criminal laws related to the principle of legality of crimes and punishments. It is based on the concepts of social interest and justice. From the perspective of social interest, punishment is not warranted if it does not serve the social interest. The issuance of a new law that decriminalizes an act or reduces a fine signifies that the previous fine was unjustified or excessive. Thus, there is no justification for applying the fine decided by the regulator, who has the authority to revise it. Moreover, excluding the financial fine imposed on the Taxpayer from this principle is unjustified and deprives the person of a legal status that the regulator granted without proper Grounds. Therefore, the Department concludes that the Plaintiff benefits from this decision and considers what has been done as a commitment to their right. If the Plaintiff commits the same violation within the specified statutory periods, they will be subject to progressively harsher fines, which the Department rules.

Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Department, after unanimous deliberation, decided:



Decision:

- Acceptance of Plaintiff's case and cancellation of the fine in question based on the reasons provided.

This decision was rendered in the presence of both parties, and the date of filing the decision in the electronic system of the General Secretariat for Zakat, Tax, and Customs Committees is considered the date of delivery of the decision. The decision is deemed final and enforceable in accordance with Article (42) of Rules of Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1951)
Delivered in Case No. (ZI-66522-2021)

Key words:

Value Added Tax - Field Inspection fine - Dispute as an Essential Element for Continuing Case Consideration - Cancellation of fine - Proof of End of Dispute.

Abstract

Plaintiff's request to cancel the decision of Zakat, Tax, and Customs Authority regarding the objection to the field inspection fine. The legal provisions indicate that a case is valid only when the dispute element is present. If this element is absent or removed at any stage of the case, it is mandatory to rule that the dispute has ended. The Department established that the Defendant had canceled the fine in question. This Department ruled to Proof of the end of the dispute - The decision is considered final and enforceable.

Instruments:

- Legal Principle: A case is valid when the dispute element is present, and if this element is absent or removed for any reason at any stage of the case, it is mandatory to rule that the dispute has ended.

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday, 20/09/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Decree No. (65474) dated 26/02/1444 AH.

Facts of the case are summarized that, holder of National ID number (.....), in his capacity as the owner of workshop, with commercial registration number (...), filed an objection to the field inspection fine.

Upon presenting the statement of claim to the Defendant, it was responded that the fine in question had been canceled.

On Tuesday, 20/09/2022 AD, the session was held according to the remote litigation procedures. The Defendant attended, but the Plaintiff's attendance was not recorded, despite being notified of the session date and the method of its conduct. The representative of the Defendant, ... participated National ID No..... in his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated 18/10/1443 AH and issued by the Deputy Governor for Legal Affairs, upon being presented with this, he requested the dismissal of the case. Accordingly, the Department ordered that the parties be temporarily dismissed from the video session for deliberation before delivering its decision.



Grounds

After reviewing the relevant laws and regulations, and given that a case is established by the presence of the litigation element, it is necessary to rule on the termination of the litigation whenever this element is absent or ceases for any reason at any stage of the case. Since the Defendant previously canceled the fine in question, as stated in the Defendant's memorandum and the minutes of the session held on Tuesday, 20/09/2022, the case is therefore considered concluded due to the Defendant's waiver.

Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department unanimously decided after deliberation:

Decision:

Confirmation of dispute resolution regarding the field inspection fine.

This decision was issued in the presence of both parties in accordance with the provisions of Article 21 of Tax Dispute and Violation Committee Procedures. The Department set a period of thirty (30) days for the receipt of a copy of the decision and may extend the deadline for additional thirty (30) days as it deems appropriate. Either party to the case may appeal against the decision within 30 days from the day following the date set for receipt of the decision, whereafter, the decision will be final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(The ruling is deemed final and imperative by termination of the dispute based on Article (42) of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1412)
Delivered in Case No. (V-68678-2021)

Key words:

Value Added Tax - Local Sales Subject to the Standard Rate - Error in Filing fine - Late Payment fine.

Abstract

Plaintiff's request to cancel the decision of Zakat, Tax, and Customs Authority regarding the final re-assessment of the tax period related to August 2020, and the fines resulting from the re-assessment. The Plaintiff based her objection in the "Local Sales Subject to the Standard Rate" item on having all the data confirming the volume of her sales and purchases, with invoices in accordance with bank payments, and all documents proving the existence of returns. She clarified that the account includes taxes collected, whether for the establishment or the company, and that she had delayed separating the data between the establishment and the company, which led to this error. The Defendant responded in the "Local Sales Subject to the Standard Rate" item that the trial balance, reflecting the beginning and end balances of the accounting period, in addition to movements during the period, was higher than the declaration. The Plaintiff was asked about the differences but did not provide a clear justification, stating that all transactions came from company's system and were considered actual sales, with the tax calculated after deducting the returns. The Department established in the (Local Sales Subject to the Standard Rate) item that the Plaintiff did not provide evidence to support her claim, despite stating that she had all the documents and was ready to present them. Therefore, the case should be dismissed. Regarding the (Error in Filing the Declaration) fine and the (Late Payment) fine, it was found that the Defendant had reversed its decision to impose the fines, as stated in the Defendant's memorandum. Therefore, the case is considered concluded due to the absence of Grounds for the claim. this Department ruled to: The dispute is considered resolved regarding the fines for the error in the declaration and late payment, and all other requests are dismissed. The decision is final and enforceable.

Instruments:

- Article (14) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of Directors of the General Authority of Zakat and Tax Board of Directors \(currently ZATCA\) Decision No. \(3839\) dated 14/12/1438 AH](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.



On Tuesday, 29/11/1443 AH, corresponding to 28/06/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, convened pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH.

The facts of this case are summed up so as... Trading Company, with commercial registration number (...), filed a statement of claim through /..., National ID No..... in his capacity as the legal representative under the incorporation contract. The claim includes an objection to Defendant's decision regarding the final re-assessment of the tax period related to August 2020, and the fines resulting from the re-assessment, requesting the cancellation of the Defendant's decision.

Having presented the statement of claim to Defendant, it responded as follows: First: In Form: On Merits: Based on Article (50) of the VAT Law, and in accordance with paragraph (1) of Article (26) of the VAT Law and Article (64) of the Implementing regulations of the VAT Law, ZATCA re-evaluated the declaration for the tax period in question. Before addressing the subject of the case, ZATCA wishes to clarify to the esteemed committee the general principle for the tax treatment of economic entities. ZATCA applies the general principle in its tax treatment of these entities, which is based on the fact that the legal entity of a company established under the Companies Law is completely independent, both in terms of obligations and rights, from the commercial establishment. This independence implies that the tax obligations should also be independent. It is not correct for the establishment, if it converts into a company, to continue submitting tax returns for the company within the establishment's returns. The company must create its own unique number, submit the returns, and pay the tax under that number. First: In Form: The item on sales subject to the basic tax rate for the tax period in question. ZATCA requested additional information from the Plaintiff to verify the accuracy of the submitted returns, as per the powers granted under paragraph (1) of Article (56) of the Implementing regulations of the VAT Law. Upon reviewing the documents submitted by the Plaintiff and inspecting the trial balance, which reflects the beginning and end balances of the accounting period, in addition to the movements during the period, it was found that the balance was higher than the declaration. ZATCA inquired about the discrepancies, but the Plaintiff did not provide a clear justification. The Plaintiff stated that all transactions came from company's system and were adopted as actual sales, with the tax being calculated after deducting the returns. Consequently, ZATCA amended the item based on Article (14) of the Implementing regulations of the VAT Law. Second: ZATCA informs that the item was amended based on the provisions of paragraph (A/1) of Article (48) of the Common VAT Agreement for the Gulf Cooperation Council States and paragraph (7) of Article (49) of the Implementing regulations of the VAT Law. Regarding the fines for Errors in Filing the Return and Late Payment fines for the Tax Periods in Question: ZATCA informs that the fines were previously canceled (attached is proof of the cancellation). Defendant representative concluded his Reply with requesting dismissal of the case. End of Answer.

The Plaintiff submitted a reply memorandum, stating: On Merits: The company objects to a number of items. Explanatory Introduction: The company was originally part of a sole proprietorship (two branches) with its TIN (...) in the name of citizen ..., and the commercial registration of this branch was converted to a limited liability company at the end of 2019. However, due to a lack of knowledge about the regulations, the business continued to submit its tax returns, including the sales and purchases of the company after the conversion. The error in separating the data between the business and the company was noticed, but the procedures followed by ZATCA during the review led to strange discrepancies, which the company has been unable to understand the causes of until now. The Presumption of Validity in ZATCA's Decisions: ZATCA claimed that the presumption in its decision is validity, and that the company is requesting the legal basis that granted ZATCA this judicial advantage. The company believes that the principle should be that ZATCA and the Taxpayer are equal parties before the Department, and that each party must present the legal basis that was relied upon in the process of linking or re-evaluating by ZATCA, as well as the legal basis and invoices or any other evidence confirming the Taxpayer's



actions. Sales: The Establishment, under its TIN ..., submitted its sales, including sales from both branches (the business and the company) with a total value of: July: (3,192,640.89) SAR, August: (2,896,922.73) SAR, September: (2,743,362.53) SAR, October: (3,110,780.94) SAR. As for Establishment's portion of the sales, according to the issued invoices, the amounts are as follows: July: (345,653.00) SAR, August: (527,868.00) SAR, September: (423,224.58) SAR, October: (570,447.61) SAR.

For Company's portion, according to the sales supported by invoices, the amounts are as follows: July: (2,846,987.89) SAR, August: (2,369,054.73) SAR, September: (2,320,137.95) SAR, October: (2,540,333.33) SAR. However, ZATCA approved the sales for the company as follows: July: (3,192,651.88) SAR, August: (2,900,524.00) SAR, September: (2,734,967.80) SAR, October: (2,540,353.99) SAR. The company believes that the action taken by ZATCA was not in accordance with the law for the following reasons: 1. The company believes that the notification letter did not include the professional details on how ZATCA arrived at the adjustment figures it made. Undoubtedly, this negatively impacts companies and taxpayers, as the final assessment made by ZATCA has legal consequences; the Taxpayer can only object to it after settling the amounts due. Therefore, the professional elements and initial linkage before approval are essential, enabling taxpayers to discuss ZATCA's evaluations in a sound and professional manner, which serves the economic environment. The lack of clarity in the procedures followed by ZATCA will negatively affect the investment climate. 2. Although the company attempted to analyze the re-evaluation carried out by ZATCA and submitted its objection, the company, even to this date, does not know how ZATCA arrived at the figures it adjusted for the value of the sales, nor what the legal basis for that was. However, the company concludes that the sales re-evaluation was based on parts of the trial balance. The company asserts that relying on the trial balance is not a sufficient basis for the re-evaluation process, as the business continued with interlinked registration between the two branches. The separation process between the two branches in the trial balance may have included errors, and these differences could have been better discussed according to the invoices issued for each branch. 3. The company bases the determination of the sales value on the invoices issued and their related returns, as they are used to determine the value of sales subject to VAT. 4. Due to the inability to attach data related to the invoices, the company will send the relevant data to the email of the General Secretariat for Zakat, Tax, and Customs Committees to attach them to the case and make them available for review. Based on this, the company requests that its sales be accepted according to the company's share of the total sales data. Procurement: The Establishment, under its TIN ..., submitted its purchases, including purchases from both branches (the establishment and the company) with a total value of: July: (2,720,332.36) SAR, October: (2,332,680.69) SAR. As for the business's portion of the purchases, according to the invoices, the amounts are as follows: July: (321,196.48) SAR, October: (447,520.06) SAR. For the company's portion of the purchases supported by invoices, the amounts are as follows: July: (2,399,135.88) SAR, October: (1,885,160.63) SAR. However, ZATCA approved the company's purchases as follows: July: (2,173,954.24) SAR, October: (1,804,010.70) SAR. The company believes that the action taken by ZATCA is not in accordance with the law for the following reasons: 1. The company believes that the notification letter did not include the professional details in specifying the reasons for the adjustment of the purchases, what the reasons for rejection were, or which invoices were rejected. This makes it difficult to discuss with ZATCA in proving the accuracy of the purchases listed in the declarations. 2. ZATCA did not clarify the reasons for rejecting part of the purchases when the objection was submitted. Furthermore, the company, after analyzing the data in its possession, has not been able to determine the reasons for ZATCA's rejection of part of the purchases. 3. The company determines the value of its purchases based on the invoices and documents in its possession. 4. Since it is not possible to attach the data to the case at this stage, the company will send the data to the Secretariat via email. Therefore, the company requests that its purchases be accepted as pertaining to the company, as mentioned above. Fines: The company submitted the financial data (for both the business and the company) in a single declaration due to a



misunderstanding of the Law and the importance of the financial data independence of each economic unit. However, the company questions: Why is ZATCA insisting on enforcing the fines, despite the existence of logical reasons that would allow ZATCA to handle such mistakes with more flexibility? The reasons for this include the following: 1. The tax liability has been paid through the Common declaration. 2. The submission of tax returns, which included data for both the business and the company under the Common declaration, was done within the statutory period. 3. There was no bad faith, as evidenced by the submission of data and the cooperation shown by the company during the examination process. 4. The application of tax, understanding the tax Law, and the experience required to handle tax situations require significant effort and time to avoid such mistakes. Therefore, ZATCA should consider the lack of knowledge of the taxpayers and not impose fines, especially for unintentional mistakes that do not harm the tax entitlement. ZATCA has an obligation in such cases to create channels to help taxpayers correct errors within specific guidelines, provided that the mistake in entering data did not result in loss to the public treasury. 5. The VAT Law has given ZATCA the necessary flexibility to deal with fines for correcting returns, as stated in paragraph 2 of Article 42, within specific guidelines. Based on this, the company requests the cancellation of the fines imposed due to the delay in payment and the delay in submitting the declarations. End of Answer.

On Monday, 30/05/2022, the session was held according to the remote litigation procedures. Both parties wished to proceed with the case, with the participation of ... National ID No..... in his capacity as the representative for the Plaintiff under Power of Attorney number (...), and the participation of Defendant's representative ... with national ID number (...), in his capacity as a representative of Zakat, Tax, and Customs Authority under authorization letter number (...), dated ..., issued by the Deputy Governor for Legal Affairs. When asked by the Plaintiff's representative about the case, he responded according to the regulations submitted to the General Secretariat of Tax Committees, adhering to what was stated in them. When asked about his response, Defendant's representative replied, maintaining what was stated in the reply memorandum. The Department asked Plaintiff's representative to review Defendant's memorandum and provide a response. The Department also requested that the Plaintiff inform whether they still object to the sales and purchases item, other than the fines, and support their memorandum with supporting documents. The Defendant should review and respond to what has been submitted. Accordingly, the Department decided to adjourn the case to 28/06/2022, requiring the Plaintiff to submit the requested documents before 12/06/2022 and allowing the Defendant to review and respond by 19/06/2022.

On Tuesday, 28/06/2022, the session was held according to the remote litigation procedures. Both parties wished to proceed with the case, with the participation of ... National ID No..... with national ID number (...), in his capacity as the company's managing director as per the attached incorporation contract, and the participation of Defendant's representative ... with national ID number (...), in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated ..., issued by the Deputy Governor for Legal Affairs. When asked if the Plaintiff had provided what was requested in the previous session, the representative responded negatively. When both parties were asked if they wished to add anything, they both decided to rely on what had been previously submitted. Therefore, the Department decided to dismiss both litigants for deliberation and issuance of decision.

Grounds

After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH as amended, the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated



11/06/1441 AH. the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the Plaintiff's objective in her case is to cancel Defendant's decision regarding the re-assessment of the tax period related to August 2020, based on the Value Added Tax Law and its Implementing regulations, and since this is a tax-related dispute, it falls under the jurisdiction of the Tax Violation and Dispute Settlement Committee as per Royal Decree No. (26040) dated 21/04/1441AH. Furthermore, since the case was filed by a party with standing and within the prescribed legal period, the Department is therefore required to accept the case in form.

On Merits: Upon reviewing the case documents and the responses of both parties after giving them sufficient time to present their arguments, it is clear that the dispute between the Plaintiff and the Defendant lies in the submission of sales records higher than those in the declaration, according to the final assessment notice issued under number (...) dated (...) corresponding to (...). Moreover, Article (14) of the Implementing Regulations of the Value Added Tax Law stipulates: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom." It is clear from Plaintiff's objection in her statement of claim that she possesses all the data confirming the volume of her sales and purchases through invoices, which align with the bank payment transactions. She also has all the documents proving the existence of returns. She explained that the account includes the taxes collected, whether for the establishment or the company, and that there was a delay in separating the data between the establishment and the company, which led to this error. The Defendant, in their reply memorandum, pointed out that after reviewing the documents submitted by the Plaintiff, it became evident that the trial balance reflecting the opening and closing balances of the accounting period, along with the movements during the period, was higher than the declaration. The Defendant inquired about the discrepancies, but the Plaintiff did not provide a clear justification. The Plaintiff stated that all transactions came from the company's system and were approved as actual sales, with the tax calculated after deducting the returns. The Department requested the Plaintiff to respond in the session of 30/05/2022 regarding what the Defendant had stated in its memorandum, but the Plaintiff did not submit anything. Accordingly, the Plaintiff has not provided evidence to support her claim, despite stating that she possesses all the documents and is ready to present them. Therefore, the claim should be dismissed, and the Defendant's actions should be upheld.

Regarding the fines for errors in filing the return and late payment for the tax period in question: Since the case requires the presence of a dispute element, and when this element is absent or removed at any stage of the case, it is necessary to rule that the dispute has ended. The Defendant reversed its decision to impose the fines, as stated in Defendant's reply memorandum. Therefore, the case is considered concluded due to the absence of Grounds for the claim.

Based on the above Grounds, and based on the Common VAT Agreement, VAT Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:

Decision:

First: In Form: Affirm termination of the dispute regarding the fines for errors in filing the return and late payment for the tax period in question.

Second: All other requests shall be denied.

This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its



receipt. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax
Violations and Disputes in Dammam

Decision No. (VD-2022-1667)
Delivered in Case No. (V-
55596-2021)

Key words:

Value Added Tax - Imports Subject to the Standard Rate - Input Tax Deduction Related to the Insurance Amount - Error in Filing fine - Late Payment fine.

Abstract

The Plaintiff requests the cancellation of the decision of Zakat, Tax, and Customs Authority regarding the final re-assessment of the tax period related to December 2018, and the fines resulting from the re-assessment. The Plaintiff focused her objection on the "Imports Subject to the Standard Rate" item, claiming that a difference had been addressed in the subsequent tax declaration for January 2019, where it was settled by a deduction from the credit balance due to the company for January 2019. In the "Input Tax Deduction Related to the Insurance Amount" item, the Defendant did not accept the input tax deduction related to the insurance amount for 2018, stating that it was indicated as an item in the customs declaration under the name "Value Added Tax Final – Accepted Refund" and "VAT (Insurance)." In the "Error in Filing the Return" and "Late Payment" fine sections, the Plaintiff paid the late registration fine for VAT. The Defendant responded in the "Imports Subject to the Standard Rate" item, noting differences in the tax returns submitted by the Plaintiff, showing an increase of (5,36,990,605) SAR, when compared with the customs database (Customs Declaration). ZATCA added the difference amount to the imports adjustment item, resulting in a reduction of the imports value by the same amount. Regarding the "Input Tax Deduction Related to the Insurance Amount," the Defendant explained that the VAT incurred on the insurance is refundable, so it cannot be deducted for tax purposes. In the "Error in Filing the Return" and "Late Payment" fine sections, ZATCA imposed the fines after reviewing and evaluating the tax period in question, as stipulated by the VAT Law. The Department found in the "Imports Subject to the Standard Rate" item that the Plaintiff acknowledged discrepancies in the imports between the 2018 customs reports and what was disclosed in the 2018 tax returns. Therefore, the Department agrees with Defendant's actions in addressing the import discrepancies. In the "Input Tax Deduction Related to the Insurance Amount" item, it was found that this insurance is not final, and it is refundable. Therefore, the Plaintiff can only request a deduction if the tax paid on it becomes final and final documents supporting that are submitted. The Department therefore agrees with Defendant's actions. In the "Error in Filing the Return" and "Late Payment" fine sections, since the Defendant reversed its decision due to Plaintiff's payment of the late registration fine for VAT, the case is therefore considered concluded due to the absence of Grounds for the appeal. Conclusion: Confirm termination of the dispute regarding the fines for errors in filing the return and late payment, and dismissal of all other requests. The decision is final and enforceable.

Instruments:



- Article (63/2, 4) of [the Implementing Regulations of the VAT Law issued by the decision of the Board of Directors of the General Authority of Zakat and Tax \(currently ZATCA\) under number \(3839\) dated 14/12/1438 AH.](#)

Facts:



Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday, 16/01/1444 AH, corresponding to 14/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, convened pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH.

The facts of this case are summarized as follows: The company ..., with commercial registration number (...), filed an objection memorandum through/ ... with national ID number (...) as its representative under POA number (...), against the Defendant's decision regarding the final reassessment for the tax period of December 2018, including the fines resulting from the reassessment. The case seeks the annulment of the Defendant's decision.

Having presented the statement of claim to Defendant, it responded as follows: First: In Form: On Merits: First: In Form: Regarding the amendment to the item on imports subject to the basic tax: After reviewing all the annual customs reports submitted by the Plaintiff and comparing them with the total imports for the year 2018 as declared in the tax returns, ZATCA reduced the value of the import item due to those discrepancies. Additionally, Plaintiff's request for a deduction of input tax related to the insurance amount is not accepted for tax deduction, as the value-added tax incurred on the insurance upon importation is refundable. Therefore, it is not eligible for tax deduction. During the objection phase with ZATCA, the Plaintiff mentioned that they had reconciled the import amounts for 2018 in the January 2019 return. If the Plaintiff refunded an amount less than what was due, the amount deducted for reconciliation cannot be precisely determined, nor can the customs declaration be identified. Hence, ZATCA's handling of these discrepancies is correct. Regarding the Plaintiff's objection to the fine for error in the declaration and late payment for the periods under objection, the fine for error in the declaration was imposed as a result of the inspection and assessment process for the disputed tax period, in accordance with Paragraph (1) of Article (42) of the VAT Law. Based on this, a late payment fine was imposed for the months following the disputed tax period, as clarified above, in accordance with the provisions of Article (43) of the VAT Law. Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response.

The Defendant submitted an additional memorandum, which included the following: First: In Form: ZATCA maintains its substantive defenses as outlined in its initial reply memorandum. Second: Regarding the item of imports subject to VAT at the basic rate paid at customs (5%): ZATCA exercised its powers as stipulated in Paragraph (1) of Article (26) of the VAT Law, as well as in Paragraph (1) of Article (26) of the Implementing Regulations of the VAT Law, by reassessing the tax period related to the case. ZATCA verified the annual imports through the customs data provided by the Plaintiff and compared them with the tax returns submitted by the Plaintiff. ZATCA noticed discrepancies in the tax returns submitted by the Plaintiff, showing an increase of SAR (36,990,605.5) when compared with the customs database (customs declaration). Therefore, ZATCA added the amount of the discrepancy to the adjustment item for imports, resulting in a reduction of the import value by the same amount. The Plaintiff mentioned in their reply memorandum that they reconciled the import amount for 2018 in their tax return for January 2019. Upon reviewing the January 2019 tax return, ZATCA found that the Plaintiff claimed an amount of SAR (8,237,818.06), with the Plaintiff asserting that they were entitled to a refund of SAR (9,383,339.00). The difference relates to amounts that were refunded in excess during 2018, amounting to SAR (1,145,520.94). ZATCA notes that the amount deducted for reconciliation, as claimed by the Plaintiff, is contrary to Paragraph (2) of Article (62) of the Implementing Regulations of the VAT Law, which clearly states that the Taxpayer must disclose all items in the



tax return in total and disclose any adjustments in a separate field from the main field. The article does not provide for Taxpayer's right to reconcile and disclose the import value as a net amount. Therefore, as Plaintiff's adjustment was not in accordance with Paragraph (2) of Article (62), and the discrepancies or customs declaration cannot be precisely identified, ZATCA upholds the correctness of its decision. (Attachment). Fourth: Regarding Plaintiff's claim for the deduction of VAT as mentioned in the customs declaration: ZATCA states that VAT incurred on insurance at the time of importation cannot be deducted, as these amounts are insurance amounts (classified as non-final) and are refundable. According to the Common Customs Law and its Implementing Regulations, along with the relevant instructions and guidelines, and as per current practice, the insurance amount paid by the Plaintiff to customs is not final. It is a disputed amount, as the dispute lies in the valuation of the imported goods. To facilitate the clearance, the Plaintiff is required to pay an insurance amount to cover what is considered the actual value of the imported goods. The Plaintiff may then submit an objection disputing the insurance amount, which could potentially result in the acceptance of the objection and the refund of the insurance amount. If the Plaintiff were allowed to deduct the insurance amount from the customs clearance, although refundable, they would benefit from both the refund of the insurance value and the deduction of input tax, which would be an unlawful procedure. Therefore, the Taxpayer is not entitled to deduct VAT on the insurance portion unless it is final. Consequently, ZATCA excluded the amount, as the Plaintiff is not entitled to the deduction based on Article (49) of the Implementing Regulations of the VAT Law. - As for Plaintiff's reference to Paragraph (B) of Article (48) of the Common VAT Agreement of the Gulf Cooperation Council countries, ZATCA believes that the article explicitly states that certain documents must be provided to exercise the right to deduct input VAT, including customs documents proving the importation of goods. Since the insurance amount (non-final) is disputed between the Plaintiff and the General Authority for Customs "previously" and is not considered a final expense incurred for the importation of goods, the Plaintiff is not entitled to request a refund. Fifth Regarding the fines for late payment and errors in submitting the declaration: ZATCA confirms that the two mentioned fines were previously canceled, which resolves the dispute concerning the fines in the case. (Attachment). Defendant representative concluded his Reply with requesting dismissal of the case.

On Monday, 13/06/2022, the session was held according to the remote litigation procedures. Both parties wished to proceed with the case, with the participation of ... National ID No..... in his capacity as Attorney of Plaintiff under POA No. (.....), as well as the Defendant's representative National ID No..... in his capacity as ZATCA's Representative by Authorization Letter No. (.....), Dated .././..... Issued by the Deputy Governor for Legal Affairs, and when the Plaintiff's representative was asked about the case, he responded according to the statement provided to the General Secretariat of the Tax Committees and insisted on the contents therein. When the Defendant's representative was asked about their response, they confirmed their adherence to the reply memorandum and added that an additional memorandum had been attached. When this was presented to the Plaintiff's representative, he requested time to review the submitted documents and provide a response. Based on that, the Department decided to postpone the hearing of the case until 27/06/2022 at 12:00 PM, with the Plaintiff required to submit the reason for the postponement before 21/06/2022, and the Defendant to review the submissions and provide a response before 26/06/2022.

The Plaintiff submitted a reply memorandum, stating: 1. ZATCA added an amount of VAT, 1,145,523.30 SAR, related to imports charged with an increase due to the discrepancy between the monthly and annual customs reports for 2018. ZATCA mentioned in its reply memorandum that the accuracy of the settlement amount could not be determined, and accordingly, the procedure was correct. The company disagrees, as the amount in the settlement matches the discrepancy amount added by ZATCA in its reassessment, proving the company's claim that it made the settlement in January 2019. (Attachment) 5. 2. Non-addition of VAT for insurance for 2018: The company pays VAT to the General Authority of Customs, which is supposed to be remitted to



ZATCA. Therefore, the company adds the total VAT paid to customs in the monthly VAT return for refund purposes. This is confirmed by Article (49), Paragraph (7) of the VAT Implementing Regulations. Thus, the amount paid to the General Authority of Customs is VAT. 3. fines related to the reassessment: ZATCA deducted all outstanding amounts through the settlement of the credit balance. (Attachment). This was done during the announced initiative period under the ministerial decision. Therefore, no fines should be applied to the reassessment. Additionally, the discrepancies on which the fines were imposed resulted from changes in the dates for the reports extracted from the General Authority of Customs' Law. This concludes Defendant's response.

The Plaintiff submitted a reply memorandum, stating: First: In Form: The company insists on the defenses presented in its initial reply memorandum. - (Attachment) 1. The company disclosed the value of the imports eligible for deduction in the January 2019 return, according to the monthly customs reports for the same period during the audit process (Attachment 5) and the objection and escalation to the Secretariat, by attaching the monthly customs reports that clearly show that the VAT to be deducted in the return for the period is 9,383,339 SAR. What the company did was correct the error in the December 2018 return, which resulted in an overstatement of imports by 1,145,520.94 SAR, and this was addressed through the settlement. (Attachment) We would like to inform the committee that the data entry operator entered the settlement amount in the declaration instead of the total amount and adjusted it in the amendments item "by mistake," and there is no financial impact from this. There is no effect resulting from the correction made by the company in the January 2019 return regarding the imports item. If the company had used the presentation method requested by ZATCA in its reply memorandum, the result would have been the same, and there would be no difference in the outcome. We would like to inform you that the company has not refunded the amount from the General Authority of Customs. As per the Law, all taxes related to imports are to be recorded in the monthly tax return and refunded by ZATCA, not by any other entity. This concludes Defendant's response.

The Defendant responded with a memorandum of reply, stating the following: First: In Form: ZATCA adheres to its substantive defenses as outlined in its initial and second reply memorandums. Second: Regarding the item of imports subject to VAT at the basic rate paid at customs (5%): The Plaintiff acknowledged in their reply memorandum that they made an error when submitting their tax return for the tax period in question regarding the disputed imports item. (Attachment).

- The Plaintiff raised in their reply memorandum dated 21/11/1443 AH, on page (2), that there was no financial impact from the error made by them, and therefore, they do not believe ZATCA's decision to reassess is justified. However, ZATCA disagrees with the Plaintiff's argument, as the Plaintiff deducted an unqualified input tax for the year 2018, based on the approved customs import data. Since the deduction of input tax resulted in the Plaintiff being entitled to financial amounts, which they could claim for a refund from ZATCA or offset, ZATCA holds that the Plaintiff's overstatement in the import item had a financial impact related to the deduction of unqualified input tax for the tax period in question. ZATCA states that the rules and regulations issued are to be followed and applied as written. According to Paragraph (2/w) of Article (62) of the VAT Implementing Regulations, as mentioned in ZATCA's previous reply memorandum, the Plaintiff was required to disclose the total tax amount for imports in the return, based on the aforementioned provision, to ensure full disclosure in the tax return. If there was any amendment to the return data, it should have been disclosed in the adjustments item. - Based on the foregoing, ZATCA stands by the correctness of its decision to reassess the Plaintiff's tax return for the month of December 2018. Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response.

On Monday, 27/06/2022, the session was held according to remote litigation procedures. Both parties expressed their desire to proceed with the case, with, participating in the session, National ID No..... in his capacity as Attorney of Plaintiff under POA No. (.....), as well as the



Defendant's representative National ID No..... in his capacity as ZATCA's Representative by Authorization Letter No. (.....), Dated .././..... Issued by the Deputy Governor for Legal Affairs, and when the Defendant's supplementary memorandum was presented to the Plaintiff's representative, he requested time to review what was submitted and provide a response. Accordingly, the Department decided to grant the Plaintiff's representative's request and postponed the hearing of the case until 31/07/2022 at 1:00 PM. The Plaintiff's representative must submit what was requested before 17/07/2022.

The Plaintiff submitted a reply memorandum, stating: First: In Form: The company adheres to its first and second memorandums. In its third reply memorandum, ZATCA placed company's defenses under an incorrect item, as the company was referring to the settlement process disclosed in the January 2019 tax return, in response to ZATCA's second reply memorandum (Attached), which requested a specific method of presentation to correct the December 2018 period. The company maintains its position, as the company presented the import item on a net basis ("settlement"), which did not result in any financial impact. This concludes Defendant's response. On Sunday, 31/07/2022, the session was held according to virtual litigation procedures, with both parties wishing to proceed with the case, with participation of ... National ID No..... in his capacity as Attorney of Plaintiff under POA No. (.....), as well as the Defendant's representative National ID No..... in his capacity as ZATCA's Representative by Authorization Letter No. (.....), Dated .././..... Issued by the Deputy Governor for Legal Affairs, and when the Plaintiff's latest memorandum dated 07/07/2022 was presented to the Defendant's representative, he requested time to review what was submitted and provide a response. Accordingly, the Department decided to temporarily suspend both parties from the virtual session for deliberation and to issue a decision. After deliberation and reviewing the statements of both parties and the submitted documents, and in accordance with the provisions of the law, its Implementing regulations, and Tax Dispute and Violation Committee Procedures, the Department unanimously decided to: Postpone the hearing of the case to the session on 14/08/2022, with the Defendant required to submit their memorandum and attachments before 06/08/2022, so that the Plaintiff's representative may provide any comments on the memorandum, if desired, before 10/08/2022.

The Defendant responded with a memorandum of reply, stating the following: ZATCA adheres to its substantive defenses as outlined in its first, second, and third reply memorandums. Second: Regarding the item of imports subject to VAT at the basic rate paid at customs (5%): Regarding the item of imports subject to VAT at the basic rate paid at customs (5%): The Plaintiff acknowledged in their reply memorandum that they made an error when submitting their tax return for the tax period in question regarding the disputed imports item. This matter is clear and does not require further clarification, nor does it necessitate ZATCA placing the Plaintiff's return (as stated in their reply memorandum) in an incorrect context, as indicated in the Plaintiff's latest memorandum. Regarding third item of the reply memorandum submitted by the Plaintiff, dated 07/07/2022 (corresponding to 08/12/1443H), the Plaintiff also mentioned that ZATCA placed the company's defenses incorrectly. However, ZATCA's response was in relation to the Plaintiff's defense that their error had no financial impact. ZATCA explained this matter in its third reply memorandum, clarifying that the error made by the Plaintiff did indeed have a financial impact. To avoid repetition, we refer you to point two of ZATCA's third reply memorandum. Based on the above, ZATCA stands by the correctness of its decision to reassess the Plaintiff's tax return for the month of December 2018. This concludes Defendant's response. (Attachment).

On Sunday, 14/08/2022, the session was held according to virtual litigation procedures, with both parties wishing to proceed with the case, with participation of ... National ID No..... in his capacity as Attorney of Plaintiff under POA No. (.....), as well as the Defendant's representative National ID No..... in his capacity as ZATCA's Representative by Authorization Letter No. (.....), Dated .././..... issued by the Deputy Governor for Legal Affairs, and upon questioning both parties about any additional submissions, they stated that they rely on



their previous submissions. Therefore, the Department decided to dismiss both litigants for deliberation and issuance of decision.

Grounds



After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH as amended, Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form, since the Plaintiff aims in this case to annul the Defendant's decision regarding the final reassessment for the tax period related to December 2018 and the fines resulting from the reassessment, based on the VAT Law and its Implementing Regulations, and since this is a tax dispute, it falls within the jurisdiction of the Tax Violations and Disputes Committee according to Royal Decree No. (26040) dated 21/04/1441H. Given that the case was filed by a party with standing and within the prescribed legal time frame, the Department must accept the case procedurally.

On merits, upon reviewing the case documents and the responses of both parties after being given adequate time to present and submit their arguments, regarding the imports subject to VAT at the basic rate paid at customs (5%), it is clear that the Plaintiff objects to the Defendant's amendment of the import item subject to VAT for the tax period in question, and the reduction to (50,36,990,605) SAR, following the Defendant's review of all the annual Saudi customs reports submitted by the Plaintiff, as well as the total import amount for 2018 that the Plaintiff declared in the tax returns. Paragraph (2) of Article (63) of the VAT Implementing Regulations states: "If a Taxpayer discovers an error or inaccuracy in their tax return that results in an overstatement of the tax due, they may correct this error at any time in a subsequent tax return after discovering the mistake, subject to the provisions of paragraph four of this article." Furthermore, Paragraph (4) of the same article states: "No correction related to any refund claim may be made in any tax return for a tax period after five (5) years from the end of the calendar year in which that tax period occurred."

After reviewing the entire case file and its defenses, it is clear that the Defendant reduced the imports claimed by the Plaintiff for deduction in their tax return for the tax period in question by (43,061,873.9) SAR, making the import value (50,36,990,605) SAR, or a VAT of (70,2,153,093) SAR, following the Defendant's review of all the annual customs reports submitted by the Plaintiff, as well as the total import amount for 2018 declared by the Plaintiff in their tax returns. The Plaintiff has clarified that the discrepancy was addressed in the subsequent January 2019 tax return, where it was settled by a deduction from the outstanding credit balance due to the company for January 2019. Therefore, the Plaintiff has acknowledged the existence of discrepancies in the imports between the 2018 customs reports and what was disclosed in the 2018 tax returns, and thus the Department deems the Defendant's action in addressing the import discrepancies as correct.

Regarding the deduction of input VAT related to the insurance amount, the Plaintiff objects to the Defendant's rejection of the input VAT deduction related to the insurance amount for 2018, valued at (704,007) SAR, indicating that it is listed as an item in the customs declaration under "VAT Refundable – Insurance VAT," which was accepted for refund. The Defendant, however, clarified that VAT incurred on insurance is refundable and therefore not eligible for tax deduction. After reviewing the entire case file and its defenses, it is clear that the Plaintiff is requesting the deduction of insurance VAT from the 2018 customs data. Since this insurance is not final and is refundable, the Plaintiff can only claim the deduction once the tax paid on it becomes final and



conclusive, with supporting documents provided. Therefore, the Department considers the Defendant's action as correct.

As for the fines for the error in the return and the delay in payment for the tax period in question, since the dispute is considered when the requirement for a contest exists, and if this requirement is absent at any stage of the case, the case must be considered closed. The Defendant has retracted its decision due to Plaintiff's payment of the late registration fine for VAT, as mentioned in Defendant's reply memorandum. Therefore, the case is concluded as there is no longer a basis for the grievance.

Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department unanimously decided after deliberation:

Decision:

First: In Form: Proof of the resolution of the dispute regarding the fines for the error in the return and the late payment for the December 2019 tax period.

Second: All other requests shall be denied.

This decision was issued in the presence of both litigants, and the Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following the specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1668)
Delivered in Case No. (V-66937-2021)

Key words:

Value-added tax - Local purchases subject to the basic rate - Employee obstruction fine - Dismissal of the case.

Abstract

The Plaintiff's claim seeks the annulment of the decision by Zakat, Tax, and Customs Authority regarding the final reassessment for the tax period related to the fourth quarter of 2020 and the employee obstruction fine. The Plaintiff based her objection in the item of "local purchases subject to the basic rate" on the Grounds that she did not receive any notice regarding the issuance of an assessment by ZATCA, and that they did not communicate with her. She also provided evidence supporting the validity of her input tax deductions from purchase invoices, as well as a bank statement validating the purchases. The Defendant responded in the "local purchases subject to the basic rate" item, stating that during the audit phase, ZATCA contacted the Plaintiff several times requesting bank statements, sales and purchase statements, and necessary data, but the Plaintiff did not respond to ZATCA's requests. The Plaintiff failed to provide any documents supporting the amounts declared in the contested item. In the "employee obstruction fine" item, ZATCA stated that the fine was not imposed on the Plaintiff. The Department confirmed that in the "local purchases subject to the basic rate" item, the Plaintiff did not attach the purchase invoices entitling her to the deduction under the provisions of the referenced articles, which the Plaintiff had stated she attached but did not. Consequently, the Department deems the Defendant's actions to be correct. In the "employee obstruction fine" item, it was established that ZATCA confirmed there was no violation during this quarter, as no fine was imposed on the Plaintiff for this period, and the Plaintiff failed to provide supporting documents for her claim. Therefore, the Department decides to reject the Plaintiff's case. - Conclusion: Dismiss Plaintiff case, and consider the decision as final and enforceable.

Instruments:

- Article (48) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Article (49/1, 7) of [the Implementing Regulations of the VAT Law issued by the decision of the Board of Directors of the General Authority of Zakat and Tax \(currently ZATCA\) under number \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.



On Sunday, 16/01/1444 AH, corresponding to 14/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, convened pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH.

Facts of the case are summarized that, holder of National ID number (.....), as the owner of ... Food Products, commercial registration number (...), filed a case containing an objection to the Defendant's decision regarding the final reassessment for the tax period related to the fourth quarter of 2020, and the employee obstruction fine in the amount of (10,000) SAR. The Plaintiff seeks the annulment of the Defendant's decisions.

Having presented the statement of claim to Defendant, it responded as follows: First: In Form: On Merits: First: In Form: Regarding the adjustment of the purchases item for the tax period in question: Since the Plaintiff did not submit any documents supporting the validity of the amounts declared in the contested item, ZATCA excluded them in accordance with the provisions of Paragraph (1/a) of Article (48) of the Common VAT Agreement for the Gulf Cooperation Council countries and Paragraph (7) of Article (49) of the VAT Implementing Regulations. The above articles require the Taxpayer to possess the documents granting them the right to deduct at the time of submitting their return, and to provide them to ZATCA upon request for the purposes of examination and assessment. Therefore, ZATCA maintains that its action is correct.

Regarding the Plaintiff's objection to the fine for the error in the return and the delay in payment for the periods under objection: As a result of the examination and assessment process for the tax period in question, a fine for the error in the return was imposed, as stipulated in Paragraph (1) of Article (42) of the VAT Law. Based on this, a late payment fine was imposed for the months following the disputed tax period, as explained earlier, in accordance with the provisions of Article (43) of the VAT Law. Regarding the employee obstruction fine, ZATCA confirms that it did not impose the fine on the Plaintiff. Therefore, the Plaintiff's action in objecting and filing a case against ZATCA is incorrect due to the lack of a legal basis for the claim. Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response. The Plaintiff submitted a reply memorandum, stating: Regarding the first item: Article (64) of the VAT Implementing Regulations states:

1- The Authority has the right to issue an assessment of the VAT obligations of the Taxpayer for one or more tax periods, and the Authority must notify the Taxpayer of this assessment when it is issued. I did not receive any notification from the General Authority of Zakat and Tax, nor did they communicate with me. As for Second Clause: Moreover, Paragraph (7) of Article (49) of the Implementing Regulations of the Law of Value Added Tax stipulates: 1. "Input VAT may not be deducted unless the taxable person has evidence that the amount of input VAT paid or due is in accordance with the provisions specified in Article (48) of this Agreement: "I have evidence proving the validity of my inputs through invoices and a bank statement that shows the accuracy of my purchases, which have been reconciled. However, I did not receive any request from ZATCA for these documents (attached). Regarding the third item of the VAT Law, which states: "Anyone who submits a false tax return to ZATCA, or modifies a tax return after submission, or submits any document to ZATCA regarding the tax due and results in an error in calculating the tax amount less than what is due, shall be penalized with a fine equal to (50%) of the difference between the calculated tax and the due tax": I have not submitted any incorrect tax returns to ZATCA, and all my entries are based on invoices for my purchases. I have a bank account statement and invoices that prove the validity of my inputs (attached)." End of Answer.

The Defendant responded with a memorandum of reply, stating the following: "The Plaintiff submitted her tax return for the tax period in question, disclosing amounts related to the local purchases subject to the basic VAT rate. During the audit phase, ZATCA contacted the Plaintiff several times requesting bank statements, sales and purchase reports, and necessary data, but the Plaintiff did not respond to ZATCA's requests. Consequently, the above item was amended based on the provisions of Article (49) of the VAT Implementing Regulations, as the requirements specified in the VAT Implementing Regulations were not met. Upon reviewing the case



documents uploaded on the Secretariat's website, it was found that the Plaintiff did not attach all the supporting documents. To examine the purchases and verify their accuracy and the Plaintiff's entitlement to the deduction, it is necessary for the Plaintiff to provide the following documents, at a minimum: 1. A trial balance for the relevant period, indicating the opening balance, debit and credit movements during the year, and the closing balance. 2. An Excel statement showing (invoice number, date, purchase value, VAT rate, VAT due, supplier name, supplier's tax identification number, description of the service provided), ensuring that the purchase amount matches what was declared. 3. Tax invoices. 4. Accounting records for the purchases. 5. Proof of payment (receipt or bank transfer). Since the Plaintiff has not provided these documents as of the date of preparing this memorandum, the Authority maintains the correctness and validity of its actions." End of Answer.

On Sunday, 05/06/2022, the Defendant's representative, ... (who had previously appeared before the Department as a representative of Zakat, Tax, and Customs Authority), attended the session. However, neither the Plaintiff nor their representative was present, despite being duly notified of the session date. Since the Plaintiff was absent, the Department unanimously decided to strike the case from the hearing schedule, in accordance with the provisions of Article (20) of the Tax Dispute and Violation Committee Procedures.

On 05/06/2022, Plaintiff submitted a request to reopen the Case.

On Sunday, 14/08/2022 AD, a session was held in accordance with Procedures for Remote Litigation. Both parties wished to proceed with the case. The Plaintiff, ..., appeared on behalf of himself by ID No...., and Defendant's Representative appeared by National ID No..... in his capacity as ZATCA's Representative by Authorization Letter No. (....), Dated .././..... issued by Deputy Governor for Legal Affairs. Having asked Plaintiff about his case, he responded that he admits what is mentioned in his statement of claim submitted to General Secretariat of Zakat, Tax and Customs Committees and confirms all facts contained therein. Having asked Defendant's representative about his reply to Plaintiff claims, he maintained his answers contained in his reply deposited in the case file. When asking both litigants if they had any other statements, they decided that they are satisfied with their earlier submissions. Therefore, the Department decided to dismiss both litigants for deliberation and issuance of decision.

Grounds

After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH as amended, the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH. the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the Plaintiff aims in this case to annul the Defendant's decision regarding the final reassessment for the tax period related to the fourth quarter of 2020 and the employee obstruction fine, based on the VAT Law and its Implementing Regulations, and since this is a tax dispute, it falls within the jurisdiction of the Tax Violations and Disputes Committee, according to Royal Decree No. (26040) dated 21/04/1441 AH. Given that the case was filed by a party with standing and within the prescribed legal time frame, the Department must accept the case in form.

On Merits: Upon reviewing the case documents and the responses of both parties after being given adequate time to present and submit their arguments, regarding the local purchases subject to the basic rate: It is clear that the dispute between the Plaintiff and the Defendant revolves around the exclusion of the total amounts for the local purchases subject to the basic rate based on Article (48) of the Common VAT Agreement for the GCC countries and Paragraph (7) of Article (49) of the VAT Implementing Regulations, due to the failure to submit the required documents. "For the purpose of exercising the right to deduction, the taxable person must possess



the following documents: A. The tax invoice obtained in accordance with the provisions of this agreement, as well as Paragraph (1) of Article (49) of the VAT Implementing Regulations, states: "Without prejudice to any specific provision in this article, a Taxpayer is entitled to deduct input tax imposed on goods and services supplied to him in the course of his economic activity, to the extent that he is able to make the following supplies: A) Taxable supplies, including supplies subject to the zero rate. B) Intra-community supplies. C) Supplies that would be considered taxable if they had been made within the Kingdom." Furthermore, Paragraph (7) of Article (49) of the VAT Implementing Regulations states: "Input VAT may not be deducted unless the taxable person has evidence that the amount of input VAT paid or due is in accordance with the provisions specified in Article (48) of this Agreement. In cases where the taxable person does not possess the required documents as specified in the Agreement, they may claim the deduction if they are able to provide the following alternative evidence to the Authority"

It is clear that the dispute between the Plaintiff and the Defendant revolves around the exclusion of the total amounts for the local purchases subject to the basic rate, based on Article (48) of the Common VAT Agreement for the GCC countries and Paragraph (7) of Article (49) of the VAT Implementing Regulations, due to the Plaintiff's failure to submit the required documents as mentioned by the Defendant in its reply memorandum. The Plaintiff indicated that they have evidence supporting the validity of their input tax deductions from purchase invoices, as well as a bank statement proving the accuracy of their purchases. However, the Plaintiff only attached the bank statement and purchase statement but did not provide the purchase invoices that would prove the validity of their input tax deduction. Therefore, since the Plaintiff did not attach any of the invoices that would grant them the right to the deduction according to the provisions of the articles mentioned above, which the Plaintiff stated were attached but were not, the Department considers the Defendant's actions to be correct.

Regarding the fine for violating the provisions of the law or regulations, it is clear from Plaintiff's objection memorandum that they are contesting the fine for violating the provisions of the law and regulations, which is related to obstructing ZATCA's employees. Defendant's response clarified that there was no violation in this quarter, as the fine was not imposed on the Plaintiff for this period, and the Plaintiff did not provide the supporting document for their claim. Therefore, the Department decides to reject Plaintiff's case.

In light of the above Grounds and in accordance with the provisions of the Common VAT Agreement of GCC States, the Law of Value Added Tax and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, **the Department, after deliberation, unanimously decided the following:**

Decision:

- To dismiss Plaintiff case.

This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1704)
Delivered in Case No. (V-70640-2021)

Key words:

Value-added tax - Final reassessment for the tax period - Sales subject to the basic rate - Local purchases subject to VAT at the basic rate - Dismissal of the case.

Abstract

The Plaintiff seeks the annulment of the decision made by Zakat, Tax, and Customs Authority regarding the final reassessment for the tax period related to December 2020 and the fines arising therefrom. The Plaintiff's objection in the "Sales subject to the basic rate" item is based on asserting that there is an incentive agreement with the parent company, demonstrating that the amounts received in each period represent incentives and discounts on purchases, not sales. The Plaintiff provided translated texts from the agreement to show that company's clients bought goods from the Plaintiff for resale, and the transaction was not an intermediary between the parent company and its clients. The agreement's translated version indicates that the amounts received by the Plaintiff from the parent company are considered promotional fees. In the item regarding "Local purchases subject to VAT at the basic rate," the Plaintiff claims to be the exclusive distributor of products from (...) company, through which (...) company provides discounts and incentives based on business volume within the Kingdom. Whereas (...) Company sends credit notes for the discount amounts, which are recorded on the current account between the two companies. (...) Company then pays the net amounts after the discount and deductions. Regarding the "Non-acceptance of transitional provisions for contracts concluded before May 11, 2020," the Plaintiff clarified that the contract with the Ministry of Media was concluded and fully executed before May 11, 2020, thus it should be subject to a 5% VAT rate, not 15%. However, the Ministry did not provide the Plaintiff with a copy of the contract or approve it until July 6, 2020, after the tax rate was amended. The Defendant responded to the "Sales subject to the basic rate" item, indicating that the adjustment included the following elements: discounts, sales, purchases, and contracts not subject to the tax rate before the change, and ZATCA explained the reasons for the adjustments by subjecting amounts for each tax period to the basic rate of 15% instead of 5%. In the "Local purchases subject to VAT at the basic rate" item, the Plaintiff failed to provide the required documents to substantiate these purchases during the initial audit phase or the objection period. Therefore, the adjustments made to this item were consistent with the timing of the amendment without considering what the Plaintiff could submit afterward. The Department confirmed that Plaintiff's translation only proves that the local clients purchased from the Plaintiff, regardless of whether the clients later sold the goods locally or internationally or used them. There is a distinction between Plaintiff's sale of goods to local consumers (its clients) and the incentives it receives from the parent company. Thus, the Department rules to dismiss Plaintiff's case on this matter. Regarding the "Local purchases subject to VAT at the basic rate," the Plaintiff did not provide supporting documents for its declaration at the time of submitting the return or during the audit and objection periods. What was submitted later in the case does not alter the correctness



of ZATCA's decision, which was made based on accurate data at the time. This ruling does not affect Plaintiff's right to claim a deduction in future tax returns if it is confirmed that their invoices meet all the required tax conditions, within the statutory period and according to the specified regulations. In the matter of "Non-acceptance of transitional provisions for contracts concluded before May 11, 2020," the Plaintiff did not provide the document to support their claim, even if it were in the form of an endorsement, purchase order, or correspondence that could validate their reasons. Therefore, the Department dismisses this argument. The Department concludes by rejecting the Plaintiff's case and upholding the Defendant's actions regarding the reassessment and the resulting fines, as they are based on a correct and legitimate cause. Conclusion: The Department accepts the case procedurally but rejects it substantively. The decision is final and must be executed.

Instruments:

- Articles (1) and (26/2) of [The Common VAT Agreement of GCC States, issued pursuant to Royal Decree No. \(M/51\) dated 03/05/1438 AH](#)
- Articles (14), (2, 33/1), (38/1, 2), of [the VAT Implementing Regulations issued by Decision No. \(3839\) of Board of Directors of General Authority for Zakat and Income, dated 10/09/1440 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday, 18/01/1444 AH, corresponding to 16/08/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, convened pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH.

Facts of this case are as follows: Company, C.R. No..... filed a case through ... with national ID number (...), acting as the Plaintiff's representative under agency number (...), challenging the Defendant's decision regarding the final reassessment for the tax period related to December 2020, along with the fines resulting from it. The Plaintiff requests the annulment of the Defendant's decision.

Having presented the statement of claim to Defendant, it responded as follows: First: In Form: On Merits: ZATCA exercised its powers granted by the law, resulting in the reassessment. The Plaintiff's business activity involves purchasing software and licenses from (...) Company and reselling them. – Regarding the adjustment made by ZATCA on the "Sales subject to the basic VAT rate" item: ZATCA found the Plaintiff's declarations regarding the contested item to be incorrect. As a result, ZATCA amended and added amounts to the sales item based on the following: 1. Differences based on the financial statements submitted by the Plaintiff. 2. Sales not subject to the 5% rate, which the Plaintiff had disclosed under the 5% VAT rate item. 3. Amounts excluded from the zero-rated export sales item. Regarding the Discount item: The Plaintiff acknowledged that these discounts are incentives provided by (...) Company under the (...) Partners Incentive Program, designed to reward service providers and maintain relationships with major clients. ZATCA requested a sample of these discounts and documents, including accounting entries, agreements, contracts with clients, invoices, discount notices, and client account statements. However, the Plaintiff failed to provide the required documents supporting its objection. The Plaintiff admitted that the agreement and contract with the client did not cover the incentives provided by (...) Company to the partner, in accordance with the terms and conditions of the incentive program, as they pertain to the level of services provided by the partner, not the client. According to Article (1) of the Common VAT Agreement and Article (2/26) of the Agreement, ZATCA maintains that its action is correct. Regarding the Export Sales item: Upon reviewing the agreements submitted by the Plaintiff, it became clear that the Plaintiff assigns its



clients to promote its services to end-users, confirming the presence of a direct beneficiary of the service who is not a contracted client of the Plaintiff (attached 1). According to Article (33) of the VAT Implementing Regulations, since a third party benefits directly from the services while in Saudi Arabia, and Plaintiff's client is not the final beneficiary, ZATCA insists on the correctness of its action by subjecting the amounts in this item to the local sales subject to the basic VAT rate. Regarding Sales Subject to 5% VAT Rate: Upon reviewing the contracts submitted by the Plaintiff for the tax period of September 2020, it was found that the contract in dispute was signed after the date required by Article (10C/79) of the VAT Implementing Regulations to consider the supply subject to the basic VAT rate (5%) before the amendment. The contract was signed on 06/07/2020, which is after May 11, 2020, as mentioned in the aforementioned article. Regarding the tax period of October 2020, the contract signed with the (...) client Bank showed that Plaintiff's client was not entitled to claim the full input tax deduction related to the contract in dispute, which fails to meet the requirements outlined in the aforementioned article for the supply to be subject to the basic VAT rate (5%) before the amendment. Therefore, ZATCA maintains that its action in this regard is correct. Regarding Plaintiff's Objection to ZATCA's Decision to Exclude Amounts Not Meeting the Tax Invoice Requirements in the "Local Purchases Subject to the Basic VAT Rate" Item: ZATCA requested additional documents from the Plaintiff in accordance with Article (66) of the VAT Implementing Regulations. Upon examining the purchase invoices submitted by the Plaintiff, it was found that they did not comply with the tax invoice requirements in Article (53) of the VAT Implementing Regulations. According to the aforementioned article, several conditions must be met, including: The name and address of both the supplier and the client, the tax identification numbers of both the supplier and the client, and the amounts subject to tax. The Plaintiff did not meet these conditions when issuing the invoices for the purchases excluded, and therefore, ZATCA maintains the correctness of its action in excluding these purchases. Regarding the Late Payment fine and the Error in the Return fine: Based on Article (43) of the VAT Law, since the Plaintiff did not pay the tax for the months following the disputed tax period due to discrepancies between the declared and due tax amounts, a late payment fine was imposed for the disputed period. Additionally, since ZATCA found the return submitted by the Plaintiff to be incorrect, an error in return submission fine was imposed, in accordance with Paragraph (1) of Article (42). Defendant representative concluded his Reply with requesting dismissal of the case. End of Answer.

The Plaintiff responded with a reply memorandum stating: Regarding the commercial discounts on purchases: The company would like to inform the Secretariat that it is the exclusive distributor of products from (...) Company, through which (...) Company provides discounts and incentives based on business volume within the Kingdom. Whereas (...) Company sends credit notes for the discount amounts, which are recorded on the current account between the two companies. (...) Company then pays the net amounts after the discount and deductions. In general, the company does not provide any services to (...) Company in this regard. The company wishes to confirm to the esteemed Secretariat that it has not provided any form of supply (goods or services), but only based on withdrawals made by the company. The company confirms its position that the amounts related to the discounts granted to the company do not constitute a separate supply of goods or services subject to VAT, based on the provisions of Article (26) of the Common Agreement, Paragraph (6). - Regarding the export services provided by the company: We believe that the supply meets all the conditions for applying the zero-rate VAT, as stated in the VAT Law, and complies with the guidelines issued by ZATCA (attachment 2). Third: Non-acceptance of the transitional provisions for contracts concluded before May 11, 2020, as all the required conditions have been met. Fourth: Regarding the non-acceptance of input tax refund on purchases: The company states that the purchases are eligible for input tax deduction under the provisions of Article (49) of the VAT Implementing Regulations. The company also retains the tax invoices for these transactions (attachment 3). Fifth Regarding VAT and the fines incurred: There was an error made by ZATCA in calculating VAT on transactions subject to the zero-rate tax or transactions related to the



reduction of purchases without legal Grounds, and the company maintains its requests as stated in the case. End of Answer.

Plaintiff's representative responded with a reply memorandum stating: First: In Form: Discounts: ZATCA mentioned that my client did not provide proof of an incentive agreement with (...) Company. Response: What my client received is an incentive and reward based on her sales volume and activities as a partner. We also disagree with ZATCA's interpretation of these incentives and discounts as falling under the concept of "consideration" as stated in Article (1) of the Common Agreement. This is incorrect; the definition of "consideration" in the agreement is: "Anything that the taxable supplier receives or will receive from the customer or a third party in exchange for the supply of goods and services, including VAT." We do not see that these incentives or discounts can be classified as a supply; rather, they are financial incentives/privileges. The cases under the concept of supply in Chapter 2 of the Common Agreement do not mention that discounts or incentives can be classified as a supply. (Attachment). (Attachment). Second: Export Sales: We request ZATCA to specify the agreement and the name of the company with which the agreement was made so that we can demonstrate to the committee that ZATCA's stance is incorrect. We also provide evidence to ZATCA showing that the companies contracted with the Plaintiff do not engage in any activities within the Kingdom. Third: Non-acceptance of the Transitional Provisions for Contracts Concluded Before May 11, 2020: We kindly request that you send a letter to the Ministry of Media to verify the actual contract start date. Plaintiff's representative concluded the memorandum by requesting the rejection of the amendments added by the Defendant. End of Answer.

The Defendant responded with a memorandum of reply, stating the following: ZATCA adheres to the defenses provided in its first reply memorandum. Second: Regarding the Export Sales item, the Sales subject to the basic VAT rate item, the Local Purchases subject to VAT at the basic rate item, and the imposed fines, ZATCA maintains the correctness of its decision, as detailed in its first reply memorandum, due to the Plaintiff's failure to provide any new documents concerning these matters. Third: Regarding the Discount item, ZATCA requests a deferment in order to study the documents related to this item. Defendant representative concluded his Reply with requesting dismissal of the case. End of Answer.

On Wednesday, 20/07/2022, the session was held according to virtual litigation procedures. Both parties expressed their desire to proceed with the case, with the Plaintiff represented by ... with national ID number (...), acting as the Plaintiff's representative under agency number (...), and the Defendant represented by ... in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated ..., issued by the Deputy Governor for Legal Affairs, and the latter stated that he requests additional time to submit a supplementary memorandum. Accordingly, the Department decided to grant the Defendant's request and postponed the hearing of the case to 16/08/2022 at 1:00 PM, with the Defendant required to submit their memorandum before 27/07/2022, and the Plaintiff to review the submission and provide a response before 03/08/2022.

The Defendant submitted a reply memorandum stating: First: In Form: The Defendant maintains the defenses provided in its first reply memorandum. Second: Regarding the Discount item: ZATCA maintains the correctness of its action. Since the Taxpayer submitted an agreement with its supplier, this agreement is not supported by invoices or the basis for calculating the incentives. Additionally, the Plaintiff informed ZATCA during the audit phase that the discounts are a substitute for the discount offered to customers. Third: Regarding the Export Sales item: ZATCA maintains the correctness of its action as stated in its first reply memorandum. Regarding the amounts subject to the basic 15% VAT rate: ZATCA maintains the correctness of its action as stated in its first reply memorandum. Regarding the Purchases item: We will provide you with a supplementary memorandum regarding this item before the hearing scheduled by the esteemed Department on 16/08/2022. Defendant representative concluded his Reply with requesting dismissal of the case. End of Answer.



Plaintiff's representative responded with a reply memorandum stating: We adhere to our initial reply memorandum. Due to the lack of clarity in Defendant's latest reply memorandum and the failure to set a date for submitting their supplementary memorandum, this will prevent my client from having enough time to review the documents and provide a response before 16/08/2022. Regarding the Discount item: We find that ZATCA has not supported its response with any legal documents, and we hope that the Department does not accept their claims. Regarding the Export Sales item: We find that ZATCA does not have acceptable evidence to support its response. We request that the Department consider the delay tactics employed by ZATCA and the denial of my client's right to review and study the evidence presented against her, in order to provide a response that will assist the Department in considering the case.

The Defendant responded with a memorandum of reply, stating the following: First: In Form: On Merits: First: In Form: ZATCA maintains the defenses provided in its previous memorandums. Second: After reviewing the reply memorandum submitted by the Plaintiff dated 03/08/2022, ZATCA does not consider any new or substantial defenses have been presented that affect the subject of the case. ZATCA wishes to comment on some points made in the Plaintiff's memorandum, as follows: A. In response to item (A) of the Plaintiff's reply memorandum dated 03/08/2022: A memorandum was submitted regarding the "Purchases" item in case number (70642-2021-V), related to local purchases subject to tax, before the Plaintiff attached their reply memorandum. - As you are aware, it is within the session management and the Department's responsibility that Plaintiff's claim of not being given enough time to respond is not within ZATCA's jurisdiction, but rather the responsibility of the esteemed Department. - ZATCA has provided all the evidence supporting the correctness of its decision, and the Plaintiff had the opportunity to submit a response to ZATCA's reply. B. In response to item (B) of the Plaintiff's reply memorandum dated 03/08/2022: The information attached in the previous reply memorandum was extracted from the statement of Plaintiff's representative and my responses to the inquiries from ZATCA, which were sent via email (attachment). Please note that the statement was sent and dated 02/03/2021. C. In response to item (C) of the Plaintiff's reply memorandum dated 03/08/2022: ZATCA attached the agreements it relied on in its first reply memorandum, and it is impossible for the Plaintiff to be unaware of the documents ZATCA is relying on, as these are the same documents that the Plaintiff submitted to ZATCA during both the audit and objection phases. ZATCA referenced these previous memorandums in its latest reply to avoid repetition of defenses or attachments. To clarify for the esteemed Department, we attach several agreements that ZATCA relied upon to make decisions regarding the Export Sales item (attachments 2, 3, and 4). We request the esteemed Department to reject any attempts by the Plaintiff to divert the case from its natural course, which is the subject of this dispute. Defendant representative concluded his Reply with requesting dismissal of the case. End of Answer.

Defendant's representative concluded the memorandum by requesting the rejection of the case. We have not received an answer from ZATCA regarding the Purchases item. Regarding Defendant's question asking to clarify the nature of ... Is it a replacement for the discount provided to customers, as mentioned in paragraph (3.4) of the contract? Since my client understands the meaning of the terms in the contract, and saw the English portion of the question, she assumed the question was related to the incentives provided by (...) Company, which is why the response was "YES." It was supposed that more attention should have been paid to the Arabic part of the contract, but the person who wrote the answer was a foreigner who did not understand Arabic well. Additionally, ZATCA's representative should have chosen simpler wording and used one language rather than mixing two languages in one question. Therefore, this does not contradict what my client has been defending from the beginning, as the (Rebates) mentioned in paragraph (4.3) are incentives from (...) company. Regarding the Export Sales item, ZATCA relied on three partner agreements, namely: (An agreement with Company - An agreement with Company - An agreement with Company. Since the term "promotion" in the agreements is not considered sufficient evidence, it should not be relied upon, as there are no invoices or documents proving



that goods were resold inside the Kingdom by any of the partners. Plaintiff's representative concluded the memorandum by requesting the rejection of the amendments added by ZATCA. End of Answer.

On Tuesday, 16/08/2022, the session was held according to the remote litigation procedures. Both parties wished to proceed with the case, with the participation of ... National ID No..... In his capacity as Attorney for the Plaintiff under POA No.; while for the Defendant appeared Mr..... National ID No..... in his capacity as ZATCA's Representative by Authorization Letter No. (....), dated..., issued by Deputy Governor for Legal Affairs. When asking both litigants if they had any other statements, they decided that they are satisfied with their earlier submissions. Therefore, the Department decided to dismiss both litigants for deliberation and issuance of decision.

Grounds

After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH as amended, Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH. the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form, Since the Plaintiff aims in this case to annul the Defendant's decision regarding the final reassessment for the tax period related to December 2020, based on the VAT Law and its Implementing Regulations, and since this is a tax dispute, it falls within the jurisdiction of the Tax Violations and Disputes Committee according to Royal Decree No. (26040) dated 21/04/1441 AH. Given that the case was filed by a party with standing and within the prescribed legal time frame, the Department must accept the case in form.

On merits, Upon reviewing the case documents and the responses of both parties after being given adequate time to present and submit their arguments, regarding the local sales subject to the basic VAT rate, it is clear that the dispute concerns the notification of the final reassessment for the tax period of December 2020. The definition of taxable supplies in Article (1) of the Common VAT Agreement for the GCC countries states: "Supplies that are subject to tax according to the provisions of the Agreement, whether at the basic rate or the zero rate, with input tax on those supplies deductible according to the provisions of the Agreement." The definition of consideration subject to tax in Article (1) of the Common VAT Agreement for the GCC countries states: "Any amount received or to be received by the taxable supplier from the customer or a third party for the supply of goods or services, including VAT." Additionally, Paragraph (2) of Article (26) of the Common VAT Agreement for the GCC countries states: "The supply value shall be the consideration value exclusive of tax, and shall include the value of the non-cash portion of the specified consideration based on the fair market value". Article (14) of the VAT Implementing Regulations states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom". As stated in Paragraph (1) of Article (33) of the VAT Implementing Regulations: "Except as provided in Paragraph (2) of this Article, the supply of services made by a taxable person to a non-resident customer in any Member State shall be treated as subject to the zero rate." As stated in Paragraph (2) of Article (33) of the VAT Implementing Regulations: "The provisions of Paragraph (1) of this Article shall not apply in any of the following cases: ((a) The supply of such Service does not take place in any Member State according to the special cases listed in Articles 17 to 21 of the Agreement. (B) If the customer is a resident of any Member State.



(C) If the customer or any other person benefits directly from the services while in a Member State, and the other person is not entitled to fully reclaim the input tax. (D) If the services are provided on tangible goods located in a Member State during the supply process." Furthermore, Paragraph (1) of Article (38) of the Implementing Regulations of the VAT Law states: "The fair market value shall be considered, rather than the supply value paid, when all of the following conditions are met: (A) When the supply occurs between related parties as defined in the Agreement or these Regulations. (B) The supply value is less than the fair market value. (C) If the customer has no right to any full input tax deduction related to the supply." Furthermore, Paragraph (2) of Article (38) of the Implementing Regulations of the VAT Law states: "For the purposes of Paragraph (1) of this Article, the term 'fair market value' in relation to the supply of goods and services refers to the consideration due for similar and concurrent supplies of goods and services, provided flexibly between persons who are not related parties."

Upon reviewing the case and ZATCA's response, the following is clear:

First: In Form: Regarding the Sales item: ZATCA maintains that the amendment to this item included the following elements: discounts, sales, purchases, and contracts not subject to the tax rate before the change, and ZATCA explained the reasons for the adjustments by subjecting amounts for each tax period to the basic rate of 15% instead of 5%. Discounts, sales, purchases, and contracts that do not apply the tax rate before the rate change. ZATCA defined the reasons for the amendment as subjecting amounts for each tax period to the basic rate (15%) instead of (5%).

This was clearly stated and included in the reassessment notices as the reason for the amendment. ZATCA also clarified in its reply the reasons and source of the amendment to Plaintiff's tax declarations regarding the sales item. However, Plaintiff's response was general concerning these points, despite the need for specific clarification of each item individually for the following reasons. The Plaintiff insisted on the existence of an incentive agreement with the parent company, claiming that the amounts received for each period represent incentives and discounts earned from purchases and not sales. The Plaintiff supported this claim by referencing the agreement's provisions, providing translations of two texts showing that the Plaintiff's clients bought goods from the Plaintiff for resale, and that the transaction did not involve acting as an intermediary between the parent company and its two clients. The translated agreement further showed that what the Plaintiff received from the parent company is considered a promotional fee.

The Plaintiff also maintained that Plaintiff's clients, in their correspondence with the Plaintiff, confirmed that the goods were transferred to a final consumer outside the Kingdom, which the Plaintiff interpreted as an export. Since the translation provided by the Plaintiff initially proves that its clients purchased from it, regardless of whether those clients later sold the goods locally or internationally or used them, and considering that there is a clear distinction between Plaintiff's sale of goods to local consumers (its clients) and the incentives it receives from the parent company, the Department finds it necessary to reject the Plaintiff's case on this part.

Regarding the Purchases item:

ZATCA confirmed that the Taxpayer did not provide the necessary documents to prove these purchases during both the initial audit and the objection phase. Therefore, the amendment made to this item is in line with the timing of the amendment without considering what the Plaintiff might submit afterward, as the decision was issued at the appropriate time based on correct information. It is evident that the Plaintiff did not provide supporting documents for its declaration in this item at the time of filing the return, or during both the audit and objection phases. What was submitted later during the consideration of this case does not change the correctness of ZATCA's decision, which was issued at the time with accurate data. This does not affect Plaintiff's right to claim the deduction in future tax returns once it is confirmed that their invoices meet all the required tax conditions, within the statutory period and according to the specified regulations.



Regarding Plaintiff's Request for Non-Application of Transitional Provisions for Contracts Concluded Before 11/05/2020:

The Plaintiff maintained that its contract with the Ministry of Media was concluded and fully executed before 11/05/2020, which should subject it to the 5% tax rate instead of 15%. The Plaintiff also stated that the Ministry did not provide a copy of the contract and only approved it on 06/07/2020, after the tax rate was amended, due to government procedures for its contracts with the private sector. However, the Plaintiff did not provide evidence supporting this claim, whether in the form of a formal endorsement, purchase order, or any correspondence that would support its reasons, and therefore the Department decides to disregard this claim.

It is established that company's response, in general, was vague and not specific, as it provided a single reason for all tax periods and did not specify the reasons for each of the eight tax periods involved in the cases before the Department, as requested. company's response did not address the reasons provided by ZATCA for each period. After reviewing the Defendant's latest memorandum, the company reiterated the same stance and claimed that ZATCA did not clarify the reasons for amending the returns, which prevented it from providing a clear and comprehensive response. However, this is incorrect. Defendant's latest response merely reiterated its previous defense, adding comments only on the items of discounts, exports, and purchases, where it specified the reasons for its actions and provided clear and undisputed documents that required only company's feedback, which was not provided. Additionally, company's argument that the document provided by the Defendant in its reply memorandum No. 3 was unclear is unfounded. The text included was clear, and the company should have responded to it rather than challenging its clarity or the lack of names or dates, especially since it was issued by the company itself, and the company did not deny its issuance. The company then responded to the Defendant's final memorandum No. 4, claiming that the lack of proficiency in Arabic by the company's employee was the cause of confusion in communicating information to ZATCA. This argument is one that should be disregarded. As a result, the Department concludes to reject the Plaintiff's case and uphold the Defendant's action in the reassessment and the fines incurred, as it was based on a legitimate and valid cause.

In light of the above Grounds and in accordance with the provisions of the Common VAT Agreement of GCC States, the Law of Value Added Tax and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, **the Department, after deliberation, unanimously decided the following:**

Decision:

- To dismiss Plaintiff case.

This decision was delivered in presence of Parties under Article (21) of Tax Dispute and Violation Committee Procedures. Date of uploading decision to electronic system of General Secretariat of Zakat, Tax and Customs Committees shall be deemed the date of decision delivery. Parties hereto may request to appeal against the decision within thirty (30) days from the day following the date set for receipt of the decision. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1720)
Delivered in Case No. (Z-81215-2021)

Key words:

Value-added tax - Field control fine - Tax ID error - Rule of more lenient fine for the violator - Gradation of punishment - Substantive acceptance.

Abstract

The Plaintiff seeks the annulment of the decision by Zakat, Tax, and Customs Authority regarding the imposition of a field control fine. The Plaintiff based their objection on the fact that the fine was imposed due to an error in the tax identification number. The Defendant responded by stating that the violation was due to non-compliance with the simplified invoice requirements, and after confirming that the Plaintiff violated the provisions of the VAT Law and its Implementing Regulations, ZATCA imposed the fine. The Department established that Article 48 of the VAT Law requires a balance between the violation and the fine, as well as a gradual approach to fines with a warning before imposing any fine. While the general principle is that no law shall have retroactive effect, exceptions exist, including the application of a more lenient law to the Defendant, as is the case in this instance where no final binding judgment has been issued yet. ZATCA's objection to the Department's application of the rule of more lenient law does not affect the matter. Excluding the financial fine imposed on the Taxpayer from this rule is unjustified and deprives the individual of a legal status granted to them by the legislator without cause. Therefore, the Department concludes that the Plaintiff benefits from this decision, considering what has occurred as an acknowledgment of the Plaintiff's right. If the violation is committed again within the prescribed statutory periods, the Plaintiff will be subject to a more severe fine, as the Department deems appropriate. Conclusion: The Department accepts the case both procedurally and substantively, considering the decision final and enforceable.

Instruments:

- Article (48) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday, 25/01/1444 AH, corresponding to 23/08/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah, convened pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH.

The facts of this case are summarized as follows: ... with national ID number (...), owner of ... Establishment for food products, commercial registration number (...), filed a case containing an objection to the Defendant's decision regarding the imposition of the field control fine number



(...), dated 26/09/2021, in the amount of (10,000) SAR, resulting from an error in the tax identification number. The Plaintiff seeks the annulment of the imposed fine.

Having presented the statement of claim to Defendant, it responded as follows: First: In Form: On Merits:

1- On 14/09/2021, ZATCA's representatives visited the Plaintiff's location during a field inspection to verify the implementation of the provisions of the VAT Law and its Implementing Regulations. After inspection, it was found that the Plaintiff violated the requirements for the simplified invoice outlined in paragraph 8 of Article (53) of the VAT Implementing Regulations (attachment). 2- After confirming Plaintiff's violation of the provisions of the VAT Law and its Implementing Regulations, as indicated above, ZATCA imposed a fine of (10,000) SAR based on paragraph 3 of Article 45 of the VAT Law. Defendant's representative concluded the memorandum by requesting the rejection of the case substantively. This concludes Defendant's response.

The Defendant submitted an additional memorandum, which included the following: ZATCA adheres to the defenses provided in its first reply memorandum. - The esteemed Department has consistently annulled ZATCA's decisions regarding field control fines, based on the Board of Directors' decision to reclassify violations and the fines for them. The dates of the field control incidents leading to the fines were prior to the date of the decision relied upon by the Department issuing the decision. Since applying the rule retroactively is not allowed unless explicitly stated in the judgment or new regulatory decision, the Department's reliance on it is invalid. Failure to consider ZATCA's defenses in this case undermines its right, which is guaranteed by law, to present defenses that clarify ZATCA's position. Additionally, ZATCA emphasizes that the field control reports and invoices related to the cases brought by the taxpayers who submit their objections to the Secretariat should be presented to the Department before the closing of the hearing. Therefore, the Department is required to consider them and issue a decision based on what is evident after hearing the defenses from both parties. The Department's decisions have contradicted each other, as the Department's reasoning states, "the new amendment is considered a more lenient law for the violator," and then adds, "While the general principle is that no law applies retroactively unless stated explicitly, exceptions exist, such as the issuance of a law more favorable to the Defendant." The Department has inconsistently referred to the plaintiffs as both violators and defendants, leading to contradictory statements. If the Department's intention is to consider the plaintiffs as violators, then it is inconsistent to apply the rule of more lenient law for defendants, as this principle pertains to criminal law, as explained above. It cannot be assumed that the Department intends to label the plaintiffs as defendants, as it is clear that the correct designation for them is violators. Therefore, the exception does not apply to the facts under consideration before the esteemed Department, as ZATCA's decision can only be described as an administrative decision, which is not subject to the same rules as criminal cases. Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response.

On Tuesday, 23/08/2022, the session was held according to the procedures for remote virtual litigation. The Defendant attended, but the Plaintiff did not, despite being notified of the session date and the method of its convening. The representative of the Defendant participated... National ID No..... in his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated 18/10/1443 AH, issued by the Deputy Governor for Legal Affairs. When confronted with this, he requested the continuation of the case and the issuance of a decision. Therefore, the Department decided to adjourn the session for deliberation and issue a decision.

Grounds

After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors



of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH as amended, the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form: Since the Plaintiff aims in his case to annul the decision of the Defendant regarding the imposition of a field inspection fine, which resulted from an error in the tax identification number, based on the Value Added Tax Law and its Implementing regulations, and since this dispute is a tax dispute, it is considered within the jurisdiction of the Tax Violations and Disputes Resolution Committee, pursuant to Royal Decree No. (26040) dated 21/04/1441 AH. As the case was filed by a party with standing and within the legally prescribed period, the committee must accept the case in form.

On merits, Upon the committee's review of the case documents and the responses from both parties, it is clear that the dispute lies in the Plaintiff's request for the Defendant to annul the field inspection fine. It is established that the Board of Directors of Zakat, Tax, and Customs Authority issued a decision, effective from 30/01/2022, which included the reclassification of violations and their corresponding fines. A gradation was introduced for violations related to field visits and electronic invoicing, where a warning is sufficient for a first-time violation, and the fines escalate in case of repetition. The board is authorized by law to issue such a decision, and since the new amendment is considered in favor of the violator, the decision was aimed at achieving one of the system's objectives, especially Article 48, which mandates the alignment between the violation and the fine, as well as the necessity of escalating fines and giving warnings before imposing any punishment. Although the general principle is that no law applies retroactively, there are exceptions to this principle, including when a law is more favorable to the Defendant, as in this case, where no final binding judgment has yet been issued. The committee, having reviewed the case documents and responses from both parties, finds that the dispute concerns Plaintiff's request to annul the field inspection fine. It is confirmed that Zakat, Tax, and Customs Authority's Board of Directors issued a decision effective from 30/01/2022, reclassifying violations and fines, creating a gradation for violations related to field visits and electronic invoicing. A warning is sufficient for a first violation, with escalating fines for subsequent violations. Since the board is authorized to issue such a decision, and the new amendment is considered more favorable to the violator, the decision aligns with one of the Law's objectives, especially in ensuring alignment between the violation and fine, as stipulated in Article 48, which calls for escalating fines and giving warnings before imposing punishment. While the general rule is that laws do not apply retroactively, there are exceptions, including when a law is more favorable to the Defendant, as in this case where no final judgment has been issued yet. Defendant's objection to the committee's application of the principle of a more favorable law is not relevant, as it is understood that this principle applies to substantive criminal provisions related to the legality of crimes and punishments, based on the ideas of social benefit and justice. From the perspective of social benefit: If a fine is not required by the necessities of social interest, there is no justification for imposing it. Since the issuance of a new law that permits an act previously considered criminal or reduces a previously imposed fine is essentially a declaration of its ineffectiveness or excess, there is no reason to apply a fine that the legislator has the authority to rescind. Furthermore, exempting the financial fine imposed on the Taxpayer from this principle has no justification and would unjustly deprive the person of a legal status that the legislator has granted them. Therefore, the committee concludes that the Defendant benefits from this decision, considering what has been done as a commitment to their right. If they commit the same violation again within the prescribed statutory periods, they will be subject to progressively harsher fines, as the committee decrees.

Based on the above Grounds, and based on the Common VAT Agreement, VAT Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:



Decision:

- Acceptance of Plaintiff's case and cancellation of the fine in question based on the reasons provided.

This decision was rendered in the presence of both parties, and the date of filing the decision in the electronic system of the General Secretariat for Zakat, Tax, and Customs Committees is considered the date of delivery of the decision. The decision is deemed final and enforceable in accordance with Article (42) of Rules of Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1722)
Delivered in Case No. (I-15389-2021)

Key words:

Value Added Tax - Field Inspection Fine - Tax Invoices - Issuance of a New Law - Substantive Acceptance

Abstract

The Plaintiff's request to annul the decision of Zakat, Tax, and Customs Authority regarding the imposition of a field inspection fine resulting from the failure to retain tax invoices. The Plaintiff based their objection on: The issuance of a decision by the Board of Directors of Zakat, Tax, and Customs Authority, effective from 30/01/2022, which included the reclassification of violations and the fines assigned to them. A gradation was introduced for violations related to field visits and electronic invoicing, where a warning is sufficient for a first-time violation, and fines escalate for repeated offenses. ZATCA responded that it maintains the defense outlined in its initial reply memorandum. The committee concluded that the issuance of a new law that permits an act previously criminalized or reduces a fine is essentially a declaration of its ineffectiveness or excess. Therefore, there is no justification for applying a fine that the legislator has the authority to rescind. Exempting the financial fine imposed on the Taxpayer from this principle has no justification and would unjustly deprive the person of a legal status granted by the legislator. Consequently, the committee concludes that the Defendant benefits from this decision, treating what has been done as a commitment to their right, meaning that if the same violation is committed again within the prescribed statutory periods, they would be subject to progressively harsher fines, as decreed by the committee. Conclusion: Acceptance of the case in form and on merits - Considering the decision final and enforceable.

Instruments:

- Article (48) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday, dated 23/01/1444 AH corresponding to 21/08/2022 AD, the First Department for Adjudicating Violations and Disputes of Value-Added Tax convened in the city of Dammam. This Department was established pursuant to the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH and its amendments, and was formed in accordance with Royal Order No. (65474) dated 23/12/1439 AH.

The facts of this case can be summarized as follows: [Name], holding National ID No. (...), owner of ... Establishment for Car Services, with Commercial Registration No. (...), submitted a statement



of claim objecting to the Defendant's decision to impose a field inspection fine No. (...) dated .../02/2020, in the amount of (10,000 SAR), resulting from the failure to retain VAT invoices. The Plaintiff requests the cancellation of the imposed fine.

Having presented the statement of claim to Defendant, it responded as follows: First: In Form: On Merits: 1- On 16/02/2020, representatives of ZATCA visited Plaintiff's premises during a field campaign to verify compliance with the provisions of the Value-Added Tax (VAT) Law and its Implementing Regulations. Upon questioning Plaintiff's representative about the records, documents, and tax invoices, he stated that they were not retained. This constitutes a violation of Paragraph 1 of Article 66 of the Implementing Regulations of the VAT Law, which states: "A taxable person must retain invoices, records, and accounting documents required to be kept under the provisions of the Law and these regulations for a period of at least six (6) years from the end of the tax period to which they relate." 2- After confirming Plaintiff's violation of the provisions of the VAT Law and its Implementing Regulations as explained above, ZATCA imposed a fine of 10,000 Saudi Riyals, in accordance with Paragraph 1 of Article 45 of the VAT Law, which states: "A fine not exceeding fifty thousand (50,000) SAR shall be imposed on anyone who: 1- Fails to retain tax invoices, books, records, and accounting documents during the period specified in the regulations, with the fine applicable for each tax period" Defendant's representative concluded the memorandum by requesting the rejection of the case substantively. This concludes Defendant's response.

The Defendant submitted an additional memorandum, which included the following: ZATCA adheres to the defenses provided in its first reply memorandum. The esteemed Department resolved to annul ZATCA's decisions regarding the imposition of field inspection fines, based on the resolution issued by the Board of Directors of ZATCA to reclassify violations and their corresponding fines. However, the dates of the field inspection incidents upon which the fines were imposed preceded the issuance date of the resolution on which the Department based its decision. Applying a legal provision retroactively is not permissible unless it is explicitly stated in the new ruling or regulatory decision. Therefore, the Department's reliance on this basis necessitates nullification. Furthermore, the Department's failure to consider the defenses submitted by ZATCA constitutes a denial of ZATCA's legal right to present arguments clarifying its position. ZATCA affirms that the field inspection reports and invoices related to the claims submitted by taxpayers who file objections with the Secretariat are presented to the Department before the closure of pleadings. Thus, the Department is obliged to examine these documents and issue its decision based on what becomes evident after hearing the arguments of both parties. Additionally, ZATCA notes that some of the Department's decisions contradict each other. The Department, in its reasoning, states that "the new amendment is considered a more favorable law for the violator," and then follows with: "While the general principle is that no legal provision applies retroactively unless explicitly stated, there are exceptions to this, including the issuance of a law that is more favorable to the accused." Here, the Department alternates between describing the claimants as violators and as accused individuals, which reflects a contradiction in reasoning. If the Department considers the claimants as violators, then it is inconceivable to apply the principle of the more favorable law for the accused, as this principle pertains to criminal law, as previously explained. It cannot be assumed that the Department intends to label the plaintiffs as defendants, as it is clear that the correct designation for them is violators. Therefore, the exception does not apply to the facts under consideration before the esteemed Department, as ZATCA's decision can only be described as an administrative decision, which is not subject to the same rules as criminal cases. Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response.

On Sunday, dated 21/08/2022, the session was held in accordance with remote litigation procedures. The Defendant appeared, while the Plaintiff was absent despite having been duly notified of the session's date and the method of its conduct. The Defendant was represented by, holding National ID No. (...), acting as a representative of Zakat, Tax and Customs Authority,



pursuant to Authorization Letter No. (...) dated [...], issued by the Deputy Governor for Legal Affairs. Upon being presented with this, he requested that the case proceed and a decision be issued. Therefore, the Department decided to adjourn the session for deliberation and issue a decision.

Grounds



After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH as amended, the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form, Since the Plaintiff seeks through his case to annul the decision of the Defendant regarding the imposition of a field inspection fine, which resulted from the failure to retain VAT invoices, and since this matter is governed by the VAT Law and its Implementing Regulations, and is considered a tax dispute, it therefore falls within the jurisdiction of the Tax Violations and Disputes Resolution Committee pursuant to Royal Order No. (26040) dated 21/04/1441 AH. Furthermore, the case was filed by a party with legal standing and within the legally prescribed time frame, and accordingly, the Department must accept the case procedurally.

On merits, upon examining the case documents and the responses of both parties, it is clear that the dispute centers around the Plaintiff's request for the Defendant to cancel the field inspection fine. It is established that the Board of Directors of Zakat, Tax and Customs Authority issued a resolution, effective as of 30/01/2022, which included the reclassification of violations and the fines associated with them. Under this resolution, a system of gradual fines was introduced for violations related to field visits and electronic invoicing, whereby a Taxpayer is initially warned in the case of a first-time offense, with fines escalating in case of repeated violations. The Board is legally authorized to issue such a resolution under the law. Given that the new amendment is considered a more favorable law for the violator, and that the resolution aimed to achieve one of the primary objectives of the VAT Law, particularly Article 48, which stipulates the necessity of proportionality between the violation and the fine, and the importance of gradual enforcement and prior warning before imposing any fine, the principle of non-retroactivity of laws may be subject to exceptions. One such exception is the issuance of a more favorable law for the accused, as is the case here, especially considering that no final, enforceable judgment has yet been issued in this case.

Upon reviewing the case documents and the responses of both parties, the Department finds that the dispute centers on the Plaintiff's request for the Defendant to cancel the field inspection fine. It is established that the Board of Directors of Zakat, Tax and Customs Authority issued a resolution, effective from 30/01/2022, that included a reclassification of violations and their corresponding fines. Under this resolution, violations related to field inspections and electronic invoicing are now subject to a graduated fine system, where the Taxpayer is merely given a warning for a first-time offense, with fines escalating in case of recurrence. The Board is duly authorized by law to issue such a resolution, and the new amendment is considered, in legal terms, a more favorable law for the violator. The resolution also seeks to fulfill one of the key objectives of the VAT Law, particularly Article 48, which emphasizes the need for proportionality between the violation and the fine, and also calls for a gradual approach to imposing fines, including issuing a warning before applying any sanction. While the general principle is that no legal provision applies retroactively, this principle is subject to exceptions, one of which is the issuance of a law that is more favorable to the accused. This applies to the present case, especially as no final, enforceable judgment has yet been issued. Defendant's objection to the Department's application of the principle of the more favorable law in this context holds no weight, since it is well established that



this principle specifically applies to substantive penal provisions tied to the principle of legality in crimes and punishments. It is based on the concepts of social interest and justice. From the perspective of social interest: If a fine is not required by the necessities of social interest, then there is no justification for imposing it. The issuance of a new law that decriminalizes an act that was previously considered an offense, or reduces an established fine, reflects a legislative determination that the previous fine is either no longer effective or excessively severe. Accordingly, there is no basis for applying a fine that the legislator, in the exercise of their authority, has decided to amend or repeal. Moreover, excluding financial fines imposed on taxpayers from this principle is unjustified and constitutes a denial of a legal position granted to the individual by the legislator without valid reason. Therefore, the Department concludes that the Plaintiff benefits from this new resolution, and what has taken place shall be regarded as a formal warning. Should the Plaintiff repeat the same violation within the legally prescribed timeframes, they would then be subject to the progressively harsher fine, this is the ruling of the Department.

Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department unanimously decided after deliberation:

Decision:

- Acceptance of Plaintiff's case and cancellation of the fine in question based on the reasons provided.

This decision was rendered in the presence of both parties, and the date of filing the decision in the electronic system of the General Secretariat for Zakat, Tax, and Customs Committees is considered the date of delivery of the decision. The decision is deemed final and enforceable in accordance with Article (42) of Rules of Committee Procedures.

May Allah Blessings and Peace be upon our Prophet Muhammad, his Family and Companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1724)
Delivered in Case No. (V-78800-2021)

Key words:

Value-Added Tax (VAT) – Amendment of the domestic taxable sales at the standard rate – Subjecting amounts listed under zero-rated sales to the standard-rated domestic taxable sales – Late payment fine – Filing error fine – Substantive response.

Abstract

The Plaintiff seeks the cancellation of the decision issued by Zakat, Tax and Customs Authority regarding the final reassessment for the tax period related to the first quarter of 2018, and the fines resulting from it. The Plaintiff based its objection on ZATCA's amendment of the domestic taxable sales at the standard rate, and the reclassification of zero-rated sales as domestic sales subject to the standard tax rate. In response, the Defendant stated that upon reviewing the financial statements submitted by the Plaintiff, tax discrepancies were found between the financial records and the disclosures made. Furthermore, the Plaintiff failed to provide justification for these discrepancies during both the audit and objection phases. In regard to the item (Reclassification of amounts listed under zero-rated sales to standard-rated domestic taxable sales): Upon reviewing the documents submitted by the Plaintiff, including invoices and purchase orders issued in 2018, it was determined that Plaintiff's activity is not eligible for the zero rate. As for the item (Late payment fine and the fine for filing an incorrect tax return): Both fines were imposed in accordance with the VAT Law. The Department found, under the item (Amendment of the domestic taxable sales at the standard rate), that the Plaintiff did not provide any evidence contradicting ZATCA's position or the legal provisions of the Law. Accordingly, the claim must be dismissed under this item. Regarding the item of (Reclassification of amounts listed under zero-rated sales to standard-rated domestic taxable sales), it was confirmed that Plaintiff's activity is not subject to the zero rate. Therefore, the claim must be dismissed under this item as well. As for the item of (Late payment fine and the fine for filing an incorrect tax return), the Department decided to dismiss the claim regarding the reassessment. It was established that the Plaintiff made an error in its tax return without providing an acceptable justification. The Department thus concludes to dismiss the claim. The same ruling applies to the late payment fine, as the due tax was paid after the legally prescribed deadline. Conclusion: The case is accepted in form and dismissed on merits. The decision is deemed final and enforceable.

Instruments:

- Articles (14) and (79) of [the Implementing Regulations of the Value Added Tax Law issued by Decision of the Board of Directors of the General Authority of Zakat and Income \(currently ZATCA\) No. \(3839\) dated 14/12/1438 AH](#)



Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Sunday, 23/01/1444 AH, corresponding to 21/08/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, convened pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH.

The facts of this case are summed up so as... Saudi Limited, holding Commercial Registration No. (...), submitted a statement of claim objecting to the decision of the Defendant regarding the final reassessment for the tax period related to the first quarter of 2018, and the resulting fines. The Plaintiff requested the cancellation of Defendant's decision.

Having presented the statement of claim to Defendant, it responded as follows: First: In Form: In from: The Plaintiff prepared a draft objection for the tax periods of the first and second quarters of 2018; however, it failed to complete the electronic procedures required to submit the objection. Consequently, ZATCA proceeded to review the case and issue a decision within the legally prescribed timeframe. The Plaintiff created the objection request and saved it as a draft but did not approve and submit it, which resulted in the automatic cancellation of the objection. Due to Plaintiff's negligence in following up and completing the approved electronic procedures, it bears responsibility for the resulting loss. **Second: On merits:** Regarding the amendment of the domestic taxable sales at the standard rate: Upon reviewing the financial statements submitted by the Plaintiff, tax discrepancies were identified between the financial data and what was disclosed. Since the Plaintiff did not provide justification for these discrepancies during either the audit or objection phases, ZATCA reclassified the amounts under domestic taxable sales at the standard rate, in accordance with Article (14) of the Implementing Regulations of the Value-Added Tax Law. Regarding the reclassification of amounts listed under zero-rated sales to domestic taxable sales at the standard rate: ZATCA excluded the amounts the Plaintiff had disclosed as zero-rated sales. Upon reviewing the supporting documents submitted by the Plaintiff, specifically invoices and purchase orders, it was found that they were issued in 2018. Therefore, the Plaintiff's activity does not qualify for the zero rate under Article (79) of the Implementing Regulations of the Value-Added Tax Law. Regarding the late payment fine and the fine for submitting an incorrect tax return: Both fines were imposed in accordance with Articles (42) and (43) of the Value-Added Tax Law. Defendant's representative concluded the memorandum by requesting the rejection of the case substantively. This concludes Defendant's response.

On Sunday, dated 21/08/2022, the session was held in accordance with remote litigation procedures. The Defendant appeared, while the Plaintiff did not attend despite being duly notified of the session's date and method of conduct. The Defendant was represented by National ID No..... in his capacity as ZATCA's Representative by Authorization Letter No. (...), Dated .././..... issued by the Deputy Governor for Legal Affairs. Upon being presented with this, he requested that the case proceed and a decision be issued. Therefore, the Department decided to adjourn the session for deliberation and issue a decision.

Grounds

After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH as amended, Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH. the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form: since the Plaintiff seeks through this case to annul Defendant's decision regarding the final reassessment for the tax period related to the first quarter of 2018 and the resulting fines,



based on the VAT Law and its Implementing Regulations, and given that this is a tax dispute, it falls within the jurisdiction of the Tax Violations and Disputes Resolution Committee in accordance with Royal Order No. (26040), dated 21/04/1441 AH. As the case was filed by a party with legal standing and within the legally prescribed time frame, the Department must accept the case procedurally.

On merits, upon reviewing the case documents and the responses of both parties, after giving them sufficient time to present their arguments and evidence, the Department notes the following: The Defendant responded that, regarding the amendment of the domestic taxable sales at the standard rate, an examination of Plaintiff's financial statements revealed discrepancies between the statements and the disclosures made in the self-submitted tax return. Since the Plaintiff failed to provide justification for these discrepancies during both the audit and objection stages, ZATCA reclassified the amounts under domestic taxable sales at the standard rate, in accordance with Article (14) of the Implementing Regulations of the VAT Law. As the company did not present anything to the contrary during the hearing, and ZATCA's approach aligns with the correct legal interpretation, the Department must rule to dismiss the claim on this matter.

As for the reclassification of the amounts listed under zero-rated sales to domestic taxable sales at the standard rate, ZATCA excluded the amounts disclosed by the Plaintiff as zero-rated sales, on the Grounds that the supporting documents, including invoices and purchase orders, were issued in 2018. Therefore, Plaintiff's activity does not qualify for the zero rate, in accordance with Article (79) of the Implementing Regulations of the VAT Law. Since this legal interpretation aligns with the correct application of the law and regulations, the Department must rule to uphold ZATCA's decision and dismiss the claim on this point.

Regarding the fine for the filing error, since the claim concerning the reassessment was dismissed and the Plaintiff was found to have submitted an incorrect return without an acceptable justification, the Department concludes to dismiss the claim. The same ruling applies to the late payment fine, as it was proven that the due tax was not paid within the legally specified deadline. Based on the above Grounds, and based on the Common VAT Agreement, VAT Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:

Decision:

- To dismiss Plaintiff case.

This decision was issued in the presence of both parties in accordance with Article 21 of Tax Dispute and Violation Committee Procedures. 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 delivery. The parties to the case may request to appeal the decision within thirty (30) days from the day following the date of delivery. If no appeal is submitted within this period, the decision shall become final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax
Violations and Disputes in Dammam

Decision No. (VD-2022-1738)
Delivered in Case No. (V-
75479-2021)

Key words:

Value Added Tax – Taxable Local Sales At Basic Rate – Fine for Submission of Incorrect Tax Return – Dismissal of Plaintiff's Case.

Abstract

Plaintiff (“**Taxpayer**”) filed this Case to abolish Defendant’s (“**ZATCA**”) decision regarding the Final Assessment Notice for the tax period for the second quarter of 2019 AD, wherein Plaintiff’s objection was based on item (Taxable Local Sales at Basic Rate) on the validity of the value of his sales, which is based on calculating the value of his deeds related to the sold properties without the properties endowed to others, while Defendant argued that the items disclosed by Plaintiff in his Tax Return were incorrect. This is due to the fact that after Defendant reviewed Plaintiff’s data registered with the Ministry of Justice, it was found that there were sales (real estate) that had not been disclosed. As for the “Fine for Submission of Incorrect Tax Return,” it was imposed in view of the results of the examination and assessment process for the tax period in question, in accordance with the provisions of Article (42.1) of the Law of Value Added Tax.

The Department Found That:

As for item (Taxable Local Sales at Basic Rate), Plaintiff has submitted a zero Tax Return, while it is proven that there were transactions according to the documents submitted by Defendant; and since Plaintiff has failed to provide any evidence supporting his claim.

As for items (Fine for Submission of Incorrect Tax Return) and (Late Payment Fine), the Department has decided to uphold Defendant’s decision regarding item (Taxable Local Sales at Basic Rate) and that the fines in question were imposed as a result of that item. Also, it is established that “The Resulting Occurrence Shall Take The Same Effect.”

The Department Decided To:

Accept Plaintiff’s Case in form and dismiss the same on merits.

The Decision is deemed final and enforceable.

Instruments:

- Articles (42.1) and (43) of [the Law of Value Added Tax, promulgated by Royal Decree No. \(M/113\) of 02/11/1438 AH.](#)

Facts:

Praise Be to Allah and May Blessings and Peace Be Upon Our Prophet Muhammad and Upon All His Family and Companions.

On Tuesday, 20/12/1443 AH, corresponding to 19/07/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, formed pursuant to the



Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, has convened to consider the Case filed by Plaintiff against Defendant.

Facts of the Case are summarized as follows: Mr., holder of National ID No., in his own capacity as Plaintiff, has filed a statement of claim objecting to the decision issued by Zakat, Tax, and Customs Authority (“ZATCA”/ “Defendant”) regarding the Final Assessment Notice for the tax period for the second quarter of 2019 AD and the fines resulting therefrom, and requested abolishment of Defendant’s decision and reconsideration of the Tax Return.

Having presented the statement of claim to Defendant it submitted a Reply that included the following:

“**First:** Having reviewed Plaintiff’s statement of claim, Defendant found that it centers in Plaintiff’s objection to the amendment issued by Defendant after its Reassessment regarding item (Taxable Local Sales at Basic Rate) and the fines resulting therefrom. Accordingly, Defendant hereby summarizes its response as follows:

- With regard to the legal basis for Defendant’s Reassessment, Article (26.1) of the Law of Value Added Tax stipulates: “The Authority may conduct a tax assessment of a taxable person irrespective of the tax return filed by him,” while Article (64.1) of the Implementing Regulations of the Law of Value Added Tax stipulates: “The Authority may make an assessment of the VAT obligations of a Person in respect of one or more Tax Periods.....”

- With regard to item (Taxable Local Sales at Basic Rate), Defendant clarifies that Plaintiff has submitted his declaration for the tax period in question, in which he disclosed that there were no taxable local sales at the basic rate for the said tax period. Defendant, having reassessed the tax period in question in accordance with its authority vested thereto in the above Articles, found that the items disclosed by Plaintiff in his Tax Return were incorrect. This is due to the fact that after Defendant reviewed Plaintiff’s data registered with the Ministry of Justice, it was found that there were sales (real estate) that had not been disclosed. Accordingly, Defendant subjected the sales to tax at the basic rate pursuant to Article (14) of the Implementing Regulations of the Law of Value Added Tax.

- With Regard to the “Fine for Submission of Incorrect Tax Return” and the “Late Payment Fine,” Defendant clarifies that it imposed the “Fine for Submission of Incorrect Tax Return” in view of the results of the examination and assessment process for the tax period in question, in accordance with the provisions of Article (42.1) of the Law of Value Added Tax, which stipulates: “Any person who files an incorrect tax return to the Authority, amends a Tax Return after being filed, or files any document with the Authority in relation to the tax due by him which results in an error in the calculation of the tax amount resulting in an amount that is less than the tax due shall be subject to a fine equal to (60%) of the difference between the calculated tax and the tax due;”

Consequently, Defendant imposed a “Late Payment Fine” for the months following the tax period in question, in accordance with the provisions of Article (43) of the Law of Value Added Tax, which stipulates: “Any person who fails to pay the tax due within the period specified by the Regulations shall be subject to a fine equal to 60% of the amount of the unpaid tax for each month or part thereof for which the tax is not paid.” Therefore, Defendant adheres to the validity and soundness of its decision to subject sales to the basic tax rate and the fines resulting therefrom.

Second: Requests:

In light of the above, Defendant requests the Department to uphold its decision and dismiss Plaintiff’s Case for the stated grounds, while reserving its right to present further responses and clarifications before the closure of pleadings.”

On Tuesday, 19/07/2022 AD, the Department held its session via video conference in accordance with the procedures for remote video litigation, wherein Mr., holder of National ID No., appeared in his capacity as Defendant’s (“ZATCA”) Representative, by virtue of Authorization No., dated .../.../... AH, issued by ZATCA’s Deputy Governor for Legal Affairs and Compliance. Neither Plaintiff nor his Representative appeared at the hearing, despite being legally served with its date the method of its convention. Having informed



Defendant's Representative of Plaintiff's absence, he requested to proceed with the consideration of the Case and the issuance of a decision thereon. Therefore, the Department decided to adjourn the hearing for deliberation in preparation for delivering a decision.

Grounds

Having taken cognizance of the case papers and after due examination of its documents, and having taken cognizance of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, as amended, the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 11/06/1441 AH, and the Common VAT Agreement of GCC States, as well as other relevant laws and regulations, the Department has decided to consider the Case.

In Form: Since Plaintiff filed the Case to abolish Defendant's decision regarding the Final Assessment Notice for the tax period for the second quarter of 2019 AD and the fines resulting therefrom, in accordance with the Law of Value Added Tax and its Implementing Regulations; and since this dispute is a Tax dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes under Royal Decree No. (26040) of 21/04/1441 AH; and since the Case was filed by a party having capacity and within the prescribed statutory period, it is then accepted in form.

On Merits: Having taken cognizance of the case papers and documents and granted parties thereto sufficient time to present all arguments and documents, the Department found that the dispute lies in Plaintiff's objection to Defendant's decision regarding the Final Assessment Notice for the tax period for the second quarter of 2019 AD and the fines resulting therefrom, which included the following:

1. Item (Taxable Local Sales at Basic Rate):

Since the dispute lies in Plaintiff's objection to Defendant's decision regarding its Assessment for Plaintiff's Tax Return for the second quarter of 2019 AD; and since Plaintiff's argument of the validity of the value of his sales is based on calculating the value of his deeds related to the sold properties without the properties endowed to others is not considered a productive argument in the Case; and since Plaintiff has submitted a zero Tax Return, while it is proven that there were transactions according to the documents submitted by Defendant; and since Plaintiff has failed to provide any evidence supporting his claim; Therefore, the Department satisfies to dismiss Plaintiff's claim and uphold Defendant's decision as to the conclusion it had in this regard.

2. Item (Fine for Submission of Incorrect Tax Return):

Since the dispute lies in Plaintiff's objection to Defendant's decision regarding the imposition of the fine in question for the second quarter of 2019 AD; and since this Department has decided to uphold Defendant's decision regarding item (Taxable Local Sales at Basic Rate); and since the fine in question was imposed as a result of that item; and since it is established that "The Resulting Occurrence Shall Take The Same Effect," in accordance with the provisions of Article (42.1) of the Law of Value Added Tax; Therefore, the Department satisfies to uphold Defendant's decision in imposing the fine in question.

3. Item (Late Payment Fine):

Since the dispute lies in Plaintiff's objection to Defendant's decision regarding the imposition of the fine in question for the second quarter of 2019 AD; and since this Department has decided to uphold Defendant's decision regarding item (Taxable Local Sales at Basic Rate); and since the fine in question was imposed as a result of that item; and since it is established that "The Resulting Occurrence Shall Take The Same Effect," in accordance with the provisions of Article (43) of the Law of Value Added Tax; Therefore, the Department satisfies to uphold Defendant's decision in imposing the fine in question.

In light of the above grounds and in accordance with the provisions of the Common VAT Agreement of GCC States, the Law of Value Added Tax and its Implementing Regulations, and



the Tax Dispute and Violation Committee Procedures, **the Department, after deliberation, unanimously decided the following:**

Decision:

- Dismiss Plaintiff's Case.

This Decision was delivered in presence of Both Parties. The Department has set thirty (30) days for receipt of a copy of this Decision, and it may be extended to another same period as the Department deems appropriate. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision is deemed final and enforceable.

May Allah's Blessings and Peace Be Upon Our Prophet Muhammad and His Family and Companions.

(The Decision is deemed final and imperative by the lapse of the objection period under Article (33.2) of Zakat, Tax, and Customs Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1739)
Delivered in Case No. (V-71440-2021)

Key words:

Value Added Tax – Dismiss The Sale – Lack of Jurisdiction.

Abstract

Plaintiff filed this Case to obligate Defendant to pay the VAT in the resulting from his supply of two real estate thereto, wherein Plaintiff claimed that the sale took place in Safar 1440 AH, which is the beginning of the implementation of the VAT, while Defendant argued that the customary principle regarding the agreed-upon sale amount is that it includes the VAT amount unless otherwise agreed. Also, in the event that Plaintiff intends that the sale does not include the VAT, he should inform the Buyer “Defendant” before the transfer of ownership that the amount does not include VAT, whereby Defendant would be aware of what additional amounts may result, which may have an impact on the decision to purchase.

The Department Found That:

Plaintiff has failed to provide evidence for his argument or that he was registered for VAT and issued a tax invoice at the time of sale.

The Department Decided To:

Accept Plaintiff's Case in form and dismiss the same regarding the tax amount, and lack of jurisdiction with regard to Plaintiff's request to dismiss the sale.

The Decision is deemed final and enforceable..

Instruments:

- Articles (1) and (25.2) of [The Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) of 03/05/1438 AH.](#)

Facts:

Praise Be to Allah and May Blessings and Peace Be Upon Our Prophet Muhammad and Upon All His Family and Companions.

On Tuesday, 20/12/1443 AH, corresponding to 19/07/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, formed pursuant to the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, has convened to consider the Case filed by Plaintiff against Defendant.

Facts of the Case are summarized as follows: Mr., holder of National ID No., in his own capacity as Plaintiff, has filed a statement of claim requesting Defendant (Mr., holder of National ID No.) to pay the Value Added Tax (“VAT”) in the amount of (SAR 96,000) resulting from his supply of two real estate to Defendant in the amount of (SAR 1,920,000).



Having presented the statement of claim to Defendant, he submitted a Reply that included the following:

“As for Plaintiff’s argument that Defendant has refused to pay the VAT on his purchases made in Safar 1440 AH, which is the beginning of the implementation of the VAT, Defendant clarifies that the customary principle regarding the agreed-upon sale amount is that it includes the VAT amount unless otherwise agreed. In addition, in the event that Plaintiff intends that the sale does not include the VAT, he should inform the Buyer “Defendant” before the transfer of ownership that the amount does not include VAT, whereby Defendant would be aware of what additional amounts may result, which may have an impact on the decision to purchase, as if the Seller “Plaintiff” had claimed an amount greater than the agreed upon, Defendant would not have accepted the purchase. Moreover, there was no agreement that the agreed-upon amount was tax-exclusive. This would have gravely harmed Defendant by claiming the amount therefrom, nearly three (3) years after the transfer of ownership, requesting an additional amount that had not been agreed upon, while Defendant had considered that the amount included the VAT, as there was no agreement or record of the same. Furthermore, this matter was not made clear before or during the transfer of ownership, as Defendant could have refrained from completing the sale, transferred ownership of the property, and received the sale price.”

On Tuesday, 19/07/2022 AD, the Department held its session via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant, wherein Mr., holder of National ID No., appeared in his capacity as Plaintiff’s Attorney, under POA No.; and Mr., holder of National ID No., appeared in his capacity as Defendant’s Attorney, under POA No. Having asked Plaintiff’s Attorney regarding the Case, he maintained the statements contained in the statement of claim previously submitted to General Secretariat of Tax Committees. Having asked Defendant’s Attorney regarding his response, he maintained the statements contained in the Reply previously submitted to General Secretariat of Tax Committees. Having asked Parties hereto whether they had further statements, they responded with denial. Therefore, the Department decided to adjourn the hearing for deliberation in preparation for delivering a decision.

Grounds

Having taken cognizance of the case papers and after due examination of its documents, and having taken cognizance of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by ZATCA “Previously GAZT” Board of Directors Decision No. (3839) of 14/12/1438 AH, as amended, the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 11/06/1441 AH, and the Common VAT Agreement of GCC States, as well as other relevant laws and regulations, the Department has decided to consider the Case.

In Form: Since Plaintiff filed the Case seeking to obligate Defendant to pay the VAT resulting from his supply of two real estate thereto, in accordance with the Law of Value Added Tax and its Implementing Regulations; and since this dispute is a Tax dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes under Royal Decree No. (26040) of 21/04/1441 AH; and since the Case was filed by a party having capacity and within the prescribed statutory period, it is then accepted in form.

On Merits: Having taken cognizance of the case papers and documents and granted parties thereto sufficient time to present all arguments and documents, the Department found that the dispute lies in Plaintiff’s request to obligate Defendant to pay the VAT resulting from his supply of two real estate thereto; and since there is no doubt that the payment of VAT amount falls on the buyer while the burden of supplying the same falls on the seller; and since it is established that the sale price includes the tax amount in accordance with the provisions of the Common VAT Agreement of GCC States, where the definition of the term “Consideration” contained in Article (1) thereof stipulates: “Everything collected or to be collected by the Taxable Supplier from the



Customer or a third party for the Supply of Goods or Services inclusive of the VAT;” and since Article (25.2) of the same VAT Agreement stipulates: “Without prejudice to the obligations provided for under this Agreement and the Local Laws, published prices in the local market for Goods and Services must include VAT;” and since there is no exception mentioned in this provision for real state; and since Plaintiff did not challenge the validity of Defendant’s arguments regarding the sale, nor did he refer to the tax due; and since “Muslims must keep to the conditions they have made, except for a condition which makes unlawful something which is lawful, or makes lawful something which is unlawful;” and since the offer, acceptance, the contracting parties, and subject of the contract (the contracted upon and the price) represent the elements of sale without which it is not valid; and since the price was determined as previously stated, any burden added to the buyer thereafter without a legal basis undermines his will and unlawfully burdens him with a financial obligation, and will inevitably lead to the instability of the financial status of all sales processes, as every seller will be able to claim that he did not include the tax amount within the price of his goods or services, and thus attempts to return to the buyer after the completion of the sale, which perhaps the matter that the provisions of Articles (1) and (25.2) of the Common VAT Agreement of GCC States keened to clarify and endorse; and since the announced sale price is the principal, and the burden of proof that the original sale price does not include the tax amount falls on whoever claims the contrary; and since “Acquittance is the Rule,” the burden of proof is therefore falls on Plaintiff (seller) and not Defendant (buyer); and since Plaintiff has failed to provide evidence for his argument or that he was registered for VAT and issued a tax invoice at the time of sale; Therefore, the Department satisfies to dismiss Plaintiff’s claim.

In light of the above grounds and in accordance with the provisions of the Common VAT Agreement of GCC States, the Law of Value Added Tax and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, **the Department, after deliberation, unanimously decided the following:**

Decision:

First: Dismiss Plaintiff’s Case regarding the tax amount.

Second: Lack of jurisdiction with regard to the Plaintiff’s request to dismiss the sale.

This Decision was delivered in presence of Both Parties. The Department has set thirty (30) days for receipt of a copy of this Decision, and it may be extended to another same period as the Department deems appropriate. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision is deemed final and enforceable.

May Allah’s Blessings and Peace Be Upon Our Prophet Muhammad and His Family and Companions.

(The Decision is deemed final and imperative by the lapse of the objection period under Article (33.2) of Zakat, Tax, and Customs Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1742)
Delivered in Case No. (V-71108-2021)

Key words:

Value Added Tax – Fine for Late Registration for VAT – Acceptance of Plaintiff's Case in Form and Dismissal on Merits.

Abstract

Plaintiff (“**Taxpayer**”) filed this Case to abolish Defendant’s (“**ZATCA**”) decision regarding the imposition of a fine for late registration for VAT, wherein Plaintiff claimed that she did not receive any prior notice alerting her to the necessity of registration and that if she had known that her sales reached the Required Threshold, she did not know that she was required to register for the VAT due to her ignorance of certain aspects of the matter, while Defendant argued that its decision is presumed valid and sound, and the burden of proof falls on whoever claims the contrary.

The Department Found That:

Plaintiff’s argument of her ignorance of the provisions of the Law is not considered a productive argument in the Case, nor does it exempt her from the fines imposed thereon, nor does it waive her obligations, since the Law, once it is issued and meets the terms and conditions of its enforcement, does not permit a claim of lack of knowledge thereof.

The Department Decided To:

Accept Plaintiff’s Case in form and dismiss the same on merits.
The Decision is deemed final and enforceable.

Instruments:

- Article (41) of [the Law of Value Added Tax, promulgated by Royal Decree No. \(M/113\) of 02/11/1438 AH.](#)

Facts:

Praise Be to Allah and May Blessings and Peace Be Upon Our Prophet Muhammad and Upon All His Family and Companions.

On Tuesday, 20/12/1443 AH, corresponding to 19/07/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, formed pursuant to the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, has convened to consider the Case filed by Plaintiff against Defendant.

Facts of the Case are summarized as follows: Ms., holder of National ID No., in her own capacity as the Owner of Trading Establishment, C.R. No., has filed a statement of claim objecting to the decision issued by Zakat, Tax, and Customs Authority (“ZATCA”/ “Defendant”) regarding the imposition of a fine for late registration for the Value Added Tax (“VAT”) No., dated 14/07/2021 AD and requested abolishment of Defendant’s decision.



Having presented the statement of claim to Defendant it submitted a Reply that included the following:

“First: 1. Defendant’s Decision is presumed valid and sound, and the burden of proof falls on whoever claims the contrary.

2. Article (50.2) of the Common VAT Agreement of GCC States stipulates: “The Mandatory Registration Threshold shall be (SAR 375,000).”

3. Article (3) of the Implementing Regulations of the Law of Value Added Tax stipulates: “For registration purposes, every Resident Person in the Kingdom who is not registered by the Authority shall at the end of each month calculate the value of his Supplies made in the Kingdom within the twelve months then ended, in accordance with the requirements set out in the Agreement. In cases where this value exceeds the Mandatory Registration Threshold detailed in the Agreement, the Person shall apply to v to register within thirty (30) days of the end of that month pursuant to Article Eight of these Regulations.”

4. Article (6) of the Implementing Regulations of the Law of Value Added Tax stipulates: “Where the Person has failed to make an application to the Authority as prescribed in these Regulations, the Authority may register such Person without submitting any application and such registration shall take effect from the relevant date prescribed under Articles Three and Four of these Regulations.” Also, Article (56) of the same Implementing Regulations stipulates: “....; 2. In addition to the other rights provided for in this article, the Authority may access relevant information held by third parties directly from those parties including requiring direct access to records generally on an ongoing basis.” Moreover, having referred to Plaintiff’s information with Saudi Central Bank (“SCB”), Defendant found that the bank transactions have exceeded the Mandatory Registration Threshold.

5. In view of the above, a fine for late registration has been imposed pursuant to Article (41) of the Law of Value Added Tax Law, which stipulates: “Any person who fails to apply for registration within the periods specified in the Regulations shall be subject to a fine of 10,000 riyals.”

Second: Requests:

In light of the above, Defendant requests the Department to uphold its decision and dismiss Plaintiff’s Case for the stated grounds, while reserving its right to present further responses and clarifications before the closure of pleadings. Defendant’s representative concluded by requesting dismissal of Plaintiff’s Case.”

On Tuesday, 19/07/2022 AD, the Department held its session via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant, wherein Ms., holder of National ID No., in her own capacity as the Owner of Trading Establishment, C.R. No.; and Mr., holder of National ID No., appeared in his capacity as Defendant’s “ZATCA” Representative, by virtue of Authorization No., dated .../.../... AH, issued by ZATCA’s Deputy Governor for Legal Affairs and Compliance. Having asked Plaintiff regarding the Case, she maintained the statements contained in the statement of claim previously submitted to General Secretariat of Tax Committees. Having asked Defendant’s Representative regarding his response, he maintained the statements contained in the Reply previously submitted to General Secretariat of Tax Committees. Having asked Parties hereto whether they had further statements, they were satisfied with their earlier submissions. Therefore, the Department decided to adjourn the hearing for deliberation in preparation for delivering a decision.

Grounds

Having taken cognizance of the case papers and after due examination of its documents, and having taken cognizance of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by ZATCA “Previously GAZT” Board of Directors Decision No. (3839) of 14/12/1438 AH, as amended, the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of



11/06/1441 AH, and the Common VAT Agreement of GCC States, as well as other relevant laws and regulations, the Department has decided to consider the Case.

In Form: Since Plaintiff filed the Case to abolish Defendant's decision regarding the imposition of a fine for late registration for VAT, in accordance with the Law of Value Added Tax and its Implementing Regulations; and since this dispute is a Tax dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes under Royal Decree No. (26040) of 21/04/1441 AH; and since the Case was filed by a party having capacity and within the prescribed statutory period, it is then accepted in form.

On Merits: Having taken cognizance of the case papers and documents and granted parties thereto sufficient time to present all arguments and documents, the Department found that the dispute lies in Plaintiff's objection to Defendant's decision regarding the imposition of a fine for late registration for VAT; and since Plaintiff did not deny her failure for registration in her statement of claim; rather, she indicated her ignorance of the provisions of the Law, in addition to not having received any prior notice alerting her to the necessity of registration; as her statement of claim included the following: "No prior notice has been received alerting Plaintiff to the necessity of registration. In addition, even if Plaintiff had knew that her sales reached the Required Threshold, she did not know that she was required to register for the VAT due to her ignorance of certain aspects of the matter;" and since Plaintiff's argument of her ignorance of the provisions of the Law is not considered a productive argument in the Case, nor does it exempt her from the fines imposed thereon, nor does it waive her obligations, since the Law, once it is issued and meets the terms and conditions of its enforcement, it is not permissible to claim lack of knowledge thereof, pursuant to Article (41) of the Law of Value Added Tax; Therefore, the Department satisfies to dismiss Plaintiff's Case.

In light of the above grounds and in accordance with the provisions of the Common VAT Agreement of GCC States, the Law of Value Added Tax and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, **the Department, after deliberation, unanimously decided the following:**

Decision:

- Dismiss Plaintiff's Case.

This Decision was delivered in presence of Both Parties. The Department has set thirty (30) days for receipt of a copy of this Decision, and it may be extended to another same period as the Department deems appropriate. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision is deemed final and enforceable.

May Allah's Blessings and Peace Be Upon Our Prophet Muhammad and His Family and Companions.

(The Decision is deemed final and imperative by the lapse of the objection period under Article (2) of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1744)
Delivered in Case No. (V-42727-2021)

Key words:

Value Added Tax – Final Assessment of Tax Periods – Fines – Taxable Local Sales At Basic Rate – Establish Resolution of Dispute.

Abstract

Plaintiff (“**Taxpayer**”) filed this Case to abolish Defendant’s (“**ZATCA**”) decision regarding the Final Assessment for the tax period of December 2019 AD and the fines resulting therefrom, which included item (Taxable Local Sales at Basic Rate), wherein Plaintiff claimed that Defendant added an amount of (SAR 14,386,956.44) to the item in question, and that it had provided all the information required by Defendant, either through clarification during the remote discussion held by Defendant with Plaintiff on 04/02/2021 AD, or within the twenty-day period specified by Defendant. In addition, Defendant did not present any substantive arguments or justifications in its Reply. Defendant argued that, with regard to the addition of the amount of (SAR 14,386,956.44) to the item in question, Plaintiff had disclosed in the amendment to the taxable local sales at the basic rate the amount of (SAR 14,386,956.44) as a bad debt. Also, having examined Plaintiff’s Tax Return, Defendant excluded that amount due to Plaintiff’s failure to meet the conditions set forth in Article (40.7) of the Implementing Regulations of the Law of Value Added Tax. With regard to the addition of the amount of (SAR 828,968.43) to the item in question, having referred to Plaintiff’s objection submitted to Defendant dated 20/12/2020 AD, Defendant found that Plaintiff did not object to the item in question and had never previously objected to the same before Defendant.

The Department Found That:

As for item (Taxable Local Sales at Basic Rate), the dispute over the item in question has been resolved.

As for the amount of (SAR 828,968.43), Plaintiff has failed to provide any evidence supporting its claim; rather, has referred to the statement of claim, which lacked any evidence, the Case has been filed without any evidence, which necessitates its dismissal in this regard.

As for the fines imposed on Plaintiff, Defendant has backed down on its Reassessment of the larger portion of the amount, which necessitates the cancellation of the fines resulting from Defendant’s Reassessment.

The Department Decided To:

Establish resolution of dispute over item (Taxable Local Sales at Basic Rate of “SAR 14,386,956.44”), cancel the fines in question, and dismiss all Plaintiff’s other requests.

The Decision is deemed final and enforceable.

Instruments:

- Article (54) of [the Implementing Regulations of the Law of Value Added Tax, issued by ZATCA “Previously GAZT” Board of Directors Decision No. \(3839\) of 14/12/1438 AH.](#)



Facts:

Praise Be to Allah and May Blessings and Peace Be Upon Our Prophet Muhammad and Upon All His Family and Companions.

On Monday, 27/06/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, formed pursuant to the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, has convened to consider the Case filed by Plaintiff against Defendant.

Facts of the Case are summarized as follows: Mr., holder of National ID No., in his capacity as Plaintiff's (..... Transportation Company, C.R. No.) Attorney, under POA No., has filed a statement of claim objecting to the decision issued by Zakat, Tax, and Customs Authority ("ZATCA"/ "Defendant") regarding the Final Assessment for the tax period of December 2019 AD and the fines resulting therefrom, and requested abolishment of Defendant's decision

Having presented the statement of claim to Defendant it submitted a Reply that included the following:

"The Case is inadmissible in form in accordance with Article (49) of the Law of Value Added Tax and Article (2) of Tax Dispute and Violation Committee Procedures, as Plaintiff has submitted its objection for the period of December 2018 AD; however, it did not submit the statutory requirements for Defendant to begin considering its objection and issue a decision within the statutory periods specified thereto. Plaintiff was requested on 04/02/2021 AD to submit documents supporting the validity of its objection in accordance with the provisions of Article (56.1) of the Implementing Regulations, yet Plaintiff did not submit the statutory requirements, which resulted in the automatic cancellation of the objection request on 23/02/2021 AD, proving that Plaintiff did not comply with the statutory procedures necessary to submit the objection." Defendant's attorney concluded by requesting dismissal of Plaintiff's Case.

Plaintiff then submitted a Replication that included following:

"First: 1. The Reply memorandum submitted by Defendant is neither signed nor sealed, nor does it bear a number or date, which is a violation of Article (65.1) of the Implementing Regulations of the Law of Civil Procedure.

2. Defendant stated that the Case was filed for the month of December 2018 AD, in violation of the Case documents, as the Case was filed for the month of December 2019 AD.

3. The formal plea presented by Defendant by inferencing to Article (65), is misplaced and unfounded, as that Article has no relation to the formal plea of the objection, which is governed by Article (3) of the Tax Dispute and Violation Committee Procedures. In addition, Plaintiff has provided all the information required by Defendant, either through clarification during the remote discussion held by Defendant with Plaintiff on 04/02/2021 AD, or within the twenty-day period specified by Defendant, which indicates that Plaintiff has complied with the provisions of Article (56.1) of the Implementing Regulations. Therefore, Plaintiff requests that its Case be accepted in form.

Second: As on merits, Defendant did not present any substantive arguments or justifications in its Reply. Therefore, Plaintiff's objection is admissible on merits." Plaintiff concluded by requesting acceptance of its Case.

On Tuesday, 25/01/2022 AD, the Department held its session via video conference in accordance with the procedures for remote video litigation, wherein Mr., holder of National ID No., appeared in his capacity as Defendant's ("ZATCA") Representative, by virtue of Authorization No., dated .../.../... AH, issued by ZATCA's Deputy Governor for Legal Affairs and Compliance. Neither Plaintiff nor its Representative appeared at the hearing, despite being legally served with its date. Since it is established that "Whoever Waived His Claim Shall Have It Dismissed," the Department unanimously decided to remove the Case from the



hearing schedule in accordance with Article (20) of Tax Dispute and Violation Committee Procedures.

On 14/02/2022 AD, Plaintiff submitted a request to reopen the Case.

On Tuesday, 19/07/2022 AD, the Department held its session via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant, wherein Mr., holder of National ID No., appeared in his capacity as Plaintiff's Attorney, under POA No.; and Mr., holder of National ID No., appeared in his capacity as Defendant's "ZATCA" Representative, by virtue of Authorization No., dated .../.../... AH, issued by ZATCA's Deputy Governor for Legal Affairs and Compliance. Having asked Plaintiff's Attorney regarding the Case, he maintained the statements contained in the statement of claim previously submitted to General Secretariat of Tax Committees. Having asked Defendant's Representative regarding his response, he requested a continuance to submit a substantive response to Plaintiff's claim. Therefore, the Department decided to allow Defendant to submit its response to Plaintiff's claim before 25/07/2022 AD and to have it reviewed by Plaintiff and submit its response before 03/08/2022 AD, and to postpone the consideration of the Case to 08/08/2022 AD.

Defendant submitted a Rejoinder that included following:

"1. Item (Taxable Local Sales at Basic Rate):

- With regard to the addition of the amount of (SAR 14,386,956.44) to the item in question, Defendant hereby inform the Department that it has accepted the amendment to the item in question by excluding that amount from the same.

- With regard to the addition of the amount of (SAR 828,968.43) to the item in question, having referred to Plaintiff's objection submitted to Defendant dated 20/12/2020 AD, Defendant found that Plaintiff did not object to the item in question and had never previously objected to the same before Defendant. In addition, Plaintiff should have initially objected to the item in question before Defendant in accordance with the statutory procedures stipulated in Article (2) of the Tax Dispute and Violation Committee Procedures, which indicates that filing an objection before Defendant initially is a prerequisite for accepting the same, and since Plaintiff did not object to the item in question before Defendant within sixty (60) days from the date of knowledge thereof, Defendant therefore requests the Department to disregard Plaintiff's objection to the item in question, pursuant to Article (3) of the Tax Dispute and Violation Committee Procedures.

- With regard to the reasons for Defendant's exclusion of the amount of (SAR 828,968.43) from the item in question, Defendant would like to clarify its viewpoint of from a substantive perspective as follows:

Defendant verified the negative amounts recorded in the sales statement as follows: (SAR - 398,311.43), (SAR -300,000.00), and (SAR -130,657.00), wherein it found that the amounts did not meet the conditions set forth in Article (54.3) of the Implementing Regulations of the Law of Value Added Tax, as the credit notes submitted by Plaintiff during the examination and review stage did not include the serial invoice numbers issued for the initial supply, in addition to those subject to the VAT in the same amount, which is (SAR 828,968.43).

2. Item (Amendment of Taxable Local Sales at Basic Rate):

Defendant clarifies that Plaintiff disclosed in the amendment to the taxable local sales at the basic rate the amount of (SAR 14,386,956.44) as a bad debt. Having examined Plaintiff's Tax Return, Defendant excluded that amount due to Plaintiff's failure to meet the conditions set forth in Article (40.7) of the Implementing Regulations of the Law of Value Added Tax. Accordingly, Defendant adheres to the validity and soundness of its decision in excluding the amount of (SAR 14,386,956.44).

Defendant's Representative concluded by requesting the following:

1. Dismiss the Case in form regarding Plaintiff's request not to subject the amount of (SAR 828,968.43) to item (Taxable Local Sales at Basic Rate).



2. Establish resolution of the dispute regarding the non-subjection of an amount of (SAR 14,386,956.44) to item (Taxable Local Sales at Basic Rate).

3. Dismiss the Case regarding all other Plaintiff's requests.

Plaintiff then submitted a Reply that included following:

1. With regard to the addition of the amount of (SAR 14,386,956.44) to item (Taxable Local Sales at Basic Rate), Plaintiff requests that Defendant's approval be confirmed in accordance with Article (70) of the Law of Civil Procedure.

2. With regard to the addition of the amount of (SAR 828,968.43) to item (Taxable Local Sales at Basic Rate), Plaintiff clarifies that the objection submitted to Defendant includes that amount, which indicates that Plaintiff has complied with the provisions of Article (2) of the Tax Dispute and Violation Committee Procedures.

Plaintiff concluded by requesting proof of Defendant's approval of Plaintiff's objection to the amount of (SAR 14,386,956.44), as a result of subjecting that amount to item (Taxable Local Sales at Basic Rate), estimated at a tax amount of (SAR 719,347.82) and adhered to the arguments mentioned in the statement of claim regarding the amount of (SAR 828,968.43)."

On Monday, 08/08/2022 AD, the Department held its session via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant, wherein Mr., holder of National ID No., appeared in his capacity as Plaintiff's Attorney, under POA No.; and Mr., holder of National ID No., appeared in his capacity as Defendant's "ZATCA" Representative, by virtue of Authorization No., dated .../.../... AH, issued by ZATCA's Deputy Governor for Legal Affairs and Compliance. Having asked Parties hereto whether they had further statements, they were satisfied with their earlier submissions. Therefore, the Department decided to adjourn the hearing for deliberation in preparation for delivering a decision in the hearing of 23/08/2022 AD, at 01:00 PM.

On Tuesday, 23/08/2022 AD, the Department held its session via video conference in accordance with the procedures for remote video litigation, wherein Mr., holder of National ID No., appeared in his capacity as Defendant's ("ZATCA") Representative, by virtue of Authorization No., dated .../10/1443 AH, issued by ZATCA's Deputy Governor for Legal Affairs and Compliance. Neither Plaintiff nor its Representative appeared at the hearing, despite being legally served with its date the method of its convention. Therefore, the Department decided to adjourn the hearing for deliberation in preparation for delivering a decision..

Grounds

Having taken cognizance of the case papers and after due examination of its documents, and having taken cognizance of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, as amended, the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 11/06/1441 AH, and the Common VAT Agreement of GCC States, as well as other relevant laws and regulations, the Department has decided to consider the Case.

In Form: Since Plaintiff filed the Case to abolish Defendant's decision regarding the Final Assessment for the tax period of December 2019 AD and the fines resulting therefrom, in accordance with the Law of Value Added Tax and its Implementing Regulations; and since this dispute is a Tax dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes under Royal Decree No. (26040) of 21/04/1441 AH; and since the Case was filed by a party having capacity and within the prescribed statutory period, it is then accepted in form.

On Merits: Having taken cognizance of the case papers and documents and granted parties thereto sufficient time to present all arguments and documents, the Department found that the dispute lies in Plaintiff's objection to Defendant's decision regarding the Final Assessment for the tax period of December 2019 AD and the fines resulting therefrom, which included the following:



1. Item (Taxable Local Sales at Basic Rate):

- With regard to the addition of an amount of (SAR 14,386,956.44) to the item in question, Defendant has accepted the amendment to the item in question and excluded the amount therefrom. Therefore, the dispute over the item in question has been resolved.
- With regard to the exclusion of the amount of (SAR 828,968.43) from the item in question, Defendant argued that it is a new request, as Plaintiff did not object to the item in question and had never previously objected to the same before Defendant, and requested disregard of that request.

As on merits, Defendant argued that it had verified the negative amounts recorded in the sales statement as follows: (SAR -398,311.43), (SAR -300,000.00), and (SAR -130,657.00), wherein it found that the amounts did not meet the conditions set forth in Article (54.3) of the Implementing Regulations of the Law of Value Added Tax, as the credit notes submitted by Plaintiff during the examination and review stage did not include the serial invoice numbers issued for the initial supply, in addition to those subject to the VAT in the same amount, which is (SAR 828,968.43). Having taken cognizance of the case documents and the subject of dispute, the Department found that, since Plaintiff has failed to provide any evidence supporting its claim; rather, has referred to the statement of claim, which lacked any evidence, the Case has been filed without any evidence, which necessitates its dismissal in this regard; and since Defendant, with regard to the fines imposed on Plaintiff has backed down on its Reassessment of the larger portion of the amount; Therefore, the Department satisfies to cancel the fines resulting from Defendant's Reassessment. In light of the above grounds and in accordance with the provisions of the Common VAT Agreement of GCC States, the Law of Value Added Tax and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided the following:

Decision:

First: Establish resolution of dispute over item (Taxable Local Sales at Basic Rate of "SAR 14,386,956.44").

Second: Cancel the fines in question.

Third: Dismiss all Plaintiff's other requests.

This Decision was delivered in presence of Both Parties in accordance with the provisions of Article (21) of Tax Dispute and Violation Committee Procedures. The Department has set thirty (30) days for receipt of a copy of this Decision, and it may be extended to another same period as the Department deems appropriate. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision is deemed final and enforceable.

May Allah's Blessings and Peace Be Upon Our Prophet Muhammad and His Family and Companions.

(The Decision is deemed final and imperative by the lapse of the objection period under Article (33.2) of Zakat, Tax, and Customs Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1814)
Delivered in Case No. (V-75262-2021)

Key words:

Value Added Tax – Field Examination Fine – Dismissal of Plaintiff's Case.

Abstract

Plaintiff (“**Taxpayer**”) filed this Case to abolish Defendant’s (“**ZATCA**”) decision regarding the imposition of a field examination fine in the amount of (SAR 10,000), resulting from the collection of tax in the name of another Taxpayer, wherein Plaintiff claimed that the TIN on the invoices belongs to another taxpayer due to his ignorance in changing the same, while Defendant argued that the invoices issued by Plaintiff included the name of another taxpayer, which resulted in a violation, and that it had imposed the fine in question after verifying Plaintiff’s violation of the provisions of the Law Value Added Tax and its Implementing Regulations.

The Department Found That:

Plaintiff has admitted the violation, which indicates that he collected the tax in the name of another taxable person; thus, Plaintiff violated the conditions that must be met in tax invoices according to Article (53.8/B) of the Implementing Regulations of the Law of Value Added Tax.

The Department Decided To:

Accept Plaintiff’s Case in form and dismiss the same on merits.

The Decision is deemed final and enforceable.

Instruments:

- Articles (56) and (58.2) of [The Common VAT Agreement of GCC States](#).
- Articles (23.1) and (45) of [The Law of Value Added Tax, promulgated by Royal Decree No. \(M/113\) of 02/11/1438 AH](#).
- Articles (53.8) and (56.1) of [The Implementing Regulations of The Law of Value Added Tax, issued by ZATCA “Previously GAZT” Board of Directors Decision No. \(3839\) of 14/12/1438 AH](#).

Facts:

Praise Be to Allah and May Blessings and Peace Be Upon Our Prophet Muhammad and Upon All His Family and Companions.

On Sunday, 08/02/1444 AH, corresponding to 04/09/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, formed pursuant to the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, has convened to consider the Case filed by Plaintiff against Defendant.

Facts of the Case are summarized as follows: Mr., holder of National ID No., in his capacity as Owner of Foodstuff Establishment, C.R. No.; has filed a statement of claim objecting to the decision issued by Zakat, Tax, and Customs Authority (“ZATCA”/ “Defendant”)



regarding the imposition of a field examination fine in the amount of (SAR 10,000), resulting from the collection of tax in the name of another taxpayer, and requested cancellation of the fine in question.

Having presented the statement of claim to Defendant, it submitted a Reply that included the following:

“1. On 06/06/2020 AD, Defendant’s representatives visited Plaintiff’s premises during the field examination. After examination, Defendant’s representatives found that Plaintiff has violated the requirements of the simplified invoice set forth in Article (53.8/B) of the Implementing Regulations of the Law of Value Added Tax, as the invoices issued by Plaintiff included the name of another taxpayer, which resulted in a violation.

2. Having verified Plaintiff violation of the provisions of the Law of Value Added Tax and its Implementing Regulations as stated above, Defendant fined Plaintiff an amount of (SAR 10,000) pursuant to Article (45.3) of the Law of Value Added Tax. Defendant concluded by requesting dismissal of Plaintiff’s Case.”

Defendant then submitted another Reply that included following:

“1. The Esteemed Department has decided to cancel Defendant’s decisions related to imposing field examination fines, in accordance with the decision of Defendant’s Board of Directors regarding the reclassification of violations and the penalties prescribed thereto. Since the dates of the field examination incidents on which the fines were imposed are prior to the date of issuance of the decision on which the Department issuing the decision based its conclusion. In addition, the legal norm established by the judiciary, which states in its content “Non-Retroactivity Of Laws,” means that the new statutory provisions do not apply retroactively, as the enforcement of a statutory provision retroactively is not permissible unless it is explicitly stated in the new statutory ruling or decision. Accordingly, the conclusion reached by the Department issuing the decision requires nullity, as disregarding the pleas presented by Defendant by that Department constitutes deprivation of Defendant’s right guaranteed by the Law to present its pleas that would clarify Defendant’s viewpoint. Moreover, Defendant also affirms that the field examination records and invoices related to the cases submitted by Taxpayers who submit their objections to the General Secretariat must be submitted to the Department before the pleadings closure. Accordingly, Defendant’s pleas must be considered and examined by that Department, and it must issue its decision after hearing the arguments of both parties.

2. It is well known the practice that jurists have adopted in classifying the branches of Law, as they have acknowledged the existence of criminal law, administrative law, and other branches of Law, each of which has a basis upon which it is based, a limit that encompasses its provisions and does not exceed, and a cause for which it arises; hence, it is inconceivable that we would place a crime in place of a misdemeanor, or a misdemeanor in place of a violation. Thus, each branch of these crimes has its own principles that regulate the same. For example, in crimes and misdemeanors, the person is described as an “accused,” while in violations, he is described as a “violation.” As a result, the rules of penalty and deterrence differ from one branch to another, as the Laws have established that the penalty for the perpetrators of a crime or misdemeanor is corporal and financial, while the penalty for the perpetrator of a violation is only financial and administrative. In addition, the variance of these penalties is nothing but an inevitable conclusion of an inherent conviction that their nature differs and the principles on which they are based also differ. Consequently, the reliance of the Esteemed Department in its decisions issued regarding field examination fines on “Rule of Lenity/ DUBIO PRO REO” to abolish Defendant’s decisions has deviated from the correct conception of the law and its branches. Moreover, the rule relied upon by the Esteemed Department pertains to criminal law, while the subject of the dispute is limited to administrative law, in which the crime is described as a “violation” and the perpetrator is described as a “violation” and not an accused.

In light of the above, the Department’s decisions regarding the field examination fines contradict each other, as it states in its reasoning: “The new amendment is, under the law, more favorable to



the violator,” then follows it up by stating: “Since it is established principle is that the provisions of any law do not apply retroactively unless otherwise stipulated; however, such principle has exceptions, including the issuance of a law that is more favorable to the accused (Rule of Lenity/ DUBIO PRO REO),” as the Esteemed Department describes plaintiffs at one time as violators and at another as offenders, which reveals a contradiction in the wording of its decision, as if the Department’s intent was that plaintiffs are considered violators, it is inconceivable that its intent was that plaintiffs are offenders, as there is no room for doubt that the correct description of plaintiffs is that they are violators. Therefore, the exception does not apply to the cases pending before the Esteemed Department, as Defendant’s decision can only be described as an administrative decision that does not fall under the same provisions that apply to the criminal cases. Defendant concluded by requesting dismissal of Plaintiff’s Case.”

Plaintiff then submitted a Replication that included following:

“Defendant’s representative asked Plaintiff for the sales invoice that is printed for the customer, wherein Defendant’s representative found that the TIN on the invoice was different from Plaintiff’s original TIN. Defendant’s representative then asked Plaintiff to change the TIN immediately. In addition, Plaintiff has no idea how to change the TIN, knowing that the device is new and the one who changed it was the engineer, as he entered all the data. After that, Plaintiff contacted the engineer immediately, who is in Dammam, while Plaintiff is in Tarout. However, the distance between the two cities is approximately 18 km, with one hour estimated to arrive at Plaintiff’s premises. Plaintiff tried to fix the problem, yet he failed to do so. While Plaintiff was talking to the engineer, Defendant’s representative said to Plaintiff, “Sign here.” Plaintiff asked him, “Sign what?” Defendant’s representative said, “Just sign.” Plaintiff asked him, “Is it an undertaking?” Defendant’s representative said, “No, it’s a routine procedure.” However, Defendant’s representative didn’t inform Plaintiff that it was a signature for a fine of (SAR 10,000), as he deliberately evaded clarifying the nature of that signature. In fact, if Defendant’s representative had only waited an hour, the engineer would have arrived and amended the TIN.”

On Sunday, 04/09/2022 AD, the Department held its session via video conference in accordance with the procedures for remote video litigation. wherein Mr., holder of National ID No., appeared in his capacity as Defendant’s (“ZATCA”) Representative, by virtue of Authorization No., dated .../.../... AH, issued by ZATCA’s Deputy Governor for Legal Affairs and Compliance. Neither Plaintiff nor his Representative appeared at the hearing, despite being legally served with its date the method of its convention. Having informed Defendant’s Representative of Plaintiff’s absence, he requested to proceed with the consideration of the Case and the issuance of a decision thereon. Therefore, the Department decided to adjourn the hearing for deliberation in preparation for delivering a decision.

Grounds

Having taken cognizance of the case papers and after due examination of its documents, and having taken cognizance of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by ZATCA “Previously GAZT” Board of Directors Decision No. (3839) of 14/12/1438 AH, as amended, the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 11/06/1441 AH, and the Common VAT Agreement of GCC States, as well as other relevant laws and regulations, the Department has decided to consider the Case.

In Form: Since Plaintiff filed the Case to abolish Defendant’s decision regarding the imposition of a field examination fine in the amount of (SAR 10,000), resulting from the collection of tax in the name of another taxpayer, in accordance with the Law of Value Added Tax and its Implementing Regulations; and since this dispute is a Tax dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes under Royal Decree No. (26040) of 21/04/1441 AH; and since the Case was filed by a party having capacity and within the prescribed statutory period, it is then accepted in form.



On Merits: Having taken cognizance of the case papers and documents and granted parties thereto sufficient time to present all arguments and documents, the Department found that the dispute lies in the imposition of a field examination fine in the amount of (SAR 10,000) for violating the provisions of the Law of Value Added Tax and its Implementing Regulations, represented in the collection of tax in the name of another taxpayer; and since Article (56.1) of the Common VAT Agreement of GCC States stipulates: “Each Member State must determine the contents of the Tax Invoice and the period within which it must be issued, provided that The Ministerial Committee shall determine the minimum details required to be included in the tax invoice. Each Member State may allow for the issuance of simplified invoices in accordance with the conditions and rules determined by it;” and since Article (58.2) of the same VAT Agreement stipulates: “A Taxable Person may engage the assistance of others to issue Tax Invoices on his behalf with the approval of the Competent Tax Administration and provided that all the obligations provided for in this Agreement and the Local Law are fulfilled;” and since Article (23.1) of the Law of Value Added Tax, concerning the “Tax Invoices,” stipulates: “The Regulations shall determine the following: 1. The contents and form of tax invoices, and the periods for the issuance thereof;” and since Article (53.8) of the Implementing Regulations of the Law of Value Added Tax stipulates: “A simplified Tax Invoice shall include the following details: a) The date of issue; b) The name, address and Tax Identification Number of the Supplier; c) A description of the Goods or services supplied; and d) The Consideration payable for the Goods or services;” and since Article (45) of the Law of Value Added Tax stipulates: “A fine not exceeding 50,000 riyals shall be imposed on any person who:; 3. violates any other provision of the Law or the Regulations;” and since Plaintiff’s request to cancel the fine in question is based on the claim that the TIN on the invoices belongs to another Taxpayer due to his ignorance in changing the same; and since the filed examination report dated 06/06/2021 AD has shown that the type of violation is the collection of tax in the name of another Taxpayer; and since Plaintiff has acknowledged in his statement of claim that the TIN on his sales invoices belongs to another Taxpayer out of his ignorance; and since Plaintiff has admitted the violation, which indicates that he collected the tax in the name of another taxable person; thus, Plaintiff violated the conditions that must be met in tax invoices according to Article (53.8/B) of the Implementing Regulations of the Law of Value Added Tax; Therefore, the Department satisfies to dismiss Plaintiff’s claim regarding the imposition of a filed examination fine in the amount of (Sar 10,000).

In light of the above grounds and in accordance with the provisions of the Common VAT Agreement of GCC States, the Law of Value Added Tax and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, **the Department, after deliberation, unanimously decided the following:**

Decision:

- Dismiss Plaintiff’s Case.

This Decision was delivered in presence of Both Parties in accordance with the provisions of Article (21) of Tax Dispute and Violation Committee Procedures. The Department has set thirty (30) days for receipt of a copy of this Decision, and it may be extended to another same period as the Department deems appropriate. The Decision is deemed final and enforceable as to the conclusion it had.

May Allah’s Blessings and Peace Be Upon Our Prophet Muhammad and His Family and Companions.

(The Decision is deemed final and imperative by the lapse of the objection period under Article (33.2) of Zakat, Tax, and Customs Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam

Decision No. (VD-2022-1816)
Delivered in Case No. (V-8421-2021)

Key words:

Value Added Tax – Fine for Late Registration for VAT – Ignorance of Tax Law – Dismissal of Plaintiff Case.

Abstract

Plaintiff (“**Taxpayer**”) filed this Case to abolish Defendant’s (“**ZATCA**”) decision regarding the imposition of a fine for late registration for VAT in the amount of (SAR 10,000), wherein Plaintiff claimed that Defendant did not inform him of the necessity for registration and that he does not have sufficient knowledge of Defendant Regulations and the Law of Value Added Tax, as this establishment is his first business activity, in which he doesn’t have enough experience, while Defendant argued that, having referred to Plaintiff’s data with (..... Bank), it found that Plaintiff’s supplies exceeded the Mandatory Registration Threshold. Therefore, the imposition of a late registration fine is legally valid, in accordance with provisions of the Law.

The Department Found That:

Plaintiff did not deny his failure for registration in his statement of claim; rather, he indicated his ignorance of the provisions of the Law. Also, Plaintiff has failed to provide any evidence proving that he had not reached the Mandatory Registration Threshold.

The Department Decided To:

Accept Plaintiff’s Case in form and dismiss the same on merits.
The Decision is deemed final and enforceable.

Instruments:

- Articles (3.1) and (41) of [the Law of Value Added Tax, promulgated by Royal Decree No. \(M/113\) of 02/11/1438 AH.](#)
- Articles (6.1), (56.2), and (3.1) of [The Implementing Regulations of The Law of Value Added Tax, issued by ZATCA “Previously GAZT” Board of Directors Decision No. \(3839\) of 14/12/1438 AH.](#)

Facts:

Praise Be to Allah and May Blessings and Peace Be Upon Our Prophet Muhammad and Upon All His Family and Companions.

On Monday, 09/02/1444 AH, corresponding to 05/09/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam, formed pursuant to the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, has convened to consider the Case filed by Plaintiff against Defendant.

Facts of the Case are summarized as follows: Mr., holder of National ID No., in his capacity as Owner of Fuel Station Establishment, C.R. No.; has filed a statement of



claim objecting to the decision issued by Zakat, Tax, and Customs Authority (“ZATCA”/ “Defendant”) regarding the imposition of a fine for late registration for the Value Added Tax (“VAT”) No., dated 28/11/2021 AD, in the amount of (SAR 10,000), and requested abolishment of Defendant’s decision.

Having presented the statement of claim to Defendant, it submitted a Reply that included the following:

“First: The Case is inadmissible in form, as Plaintiff did not file his Case before the General Secretariat within the prescribed statutory period in accordance with the provisions of Article (2) of the Tax Dispute and Violation Committee Procedures. Additionally, since Defendant’s decision in rejecting the objection was issued on 23/07/2021 AD, while Plaintiff filed his case before the General Secretariat on 28/11/2021 AD, there is a more than 30-day gap between the date of the notice and the date of the filing the Case. Accordingly, and due to the lapse of the prescribed statutory period for accepting the objection in terms of form, the appealed decision may not be disputed for being time-barred in accordance with the provisions of Article (3.2) of the Tax Dispute and Violation Committee Procedures.

Second: As to merits, Plaintiff’s Case should be dismissed in accordance with Article (50.2) of the Common VAT Agreement of GCC States and Articles (3) and (6) of the Implementing Regulations of the Law of Value Added Tax. In addition, Article (56.2) of the same Implementing Regulations has granted Defendant the right to access information directly and continuously relevant to the tax that is held by third parties. Moreover, having referred to Plaintiff’s data with (..... Bank), Defendant found that Plaintiff’s supplies exceeded the Mandatory Registration Threshold. Therefore, the imposition of a late registration fine is legally valid, in accordance with Article (41) of the Law of Value Added Tax. Defendant concluded by requesting dismissal of Plaintiff’s Case.

Plaintiff then submitted a Replication that included following:

First: Defendant stated that Plaintiff had not submitted his objection on the website of the General Secretariat of Tax Committees within one month of the date of the registration of the Case with Defendant. Plaintiff clarifies that he had submitted more than one case, under Nos. (V-65858-2021) and (V-70430-2021); however, they had been dismissed due to Plaintiff’s failure to complete the required documents. Also, Plaintiff lives in Tihama Qahtan, on the Yemeni border, and there is no cell tower coverage in his area of residence. Plaintiff is also far from the nearest city to complete the requirement of his Case. With regard to the other case, there was a system malfunction, as Plaintiff had contacted Defendant and the General Secretariat of Tax Committees several times via email, yet he has not received any response.

Second: With regard to the fine in question imposed on Plaintiff in the amount of (SAR 10,000), Plaintiff clarifies that Defendant did not inform him of the necessity for registration and that he does not have sufficient knowledge of Defendant Regulations and the Law of Value Added Tax, as this establishment is his first business activity, in which he doesn’t have enough experience. Accordingly, Plaintiff requests cancellation of the fine in question due to his inability to pay the same, as Plaintiff’s activity is a fuel station, and its sales are small and its income is limited, and the profit from a single refund does not exceed (SAR 2,000), which is Plaintiff’s only source of income.

On Monday, 05/09/2022 AD, the Department held its session via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant, wherein Mr., holder of National ID No., appeared in his own capacity as Plaintiff; and Mr., holder of National ID No., appeared in his capacity as Defendant’s “ZATCA” Representative, by virtue of Authorization No., dated .../.../... AH, issued by ZATCA’s Deputy Governor for Legal Affairs and Compliance. Having asked Plaintiff regarding the Case, he maintained the statements contained in the statement of claim previously submitted to the General Secretariat of Tax Committees. Having asked Defendant’s Representative regarding his response, he maintained the statements contained in the Reply previously submitted to the General Secretariat of Tax Committees. Having asked Parties hereto



whether they had further statements, they were satisfied with their earlier submissions. Therefore, the Department decided to adjourn the hearing for deliberation in preparation for delivering a decision.

Grounds

Having taken cognizance of the case papers and after due examination of its documents, and having taken cognizance of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by ZATCA “Previously GAZT” Board of Directors Decision No. (3839) of 14/12/1438 AH, as amended, the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 11/06/1441 AH, and the Common VAT Agreement of GCC States, as well as other relevant laws and regulations, the Department has decided to consider the Case.

In Form: Since Plaintiff filed the Case to abolish Defendant’s decision regarding the imposition of a fine for late registration for VAT in the amount of (SAR 10,000), in accordance with the Law of Value Added Tax and its Implementing Regulations; and since this dispute is a Tax dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes under Royal Decree No. (26040) of 21/04/1441 AH; and since the Case was filed by a party having capacity and within the prescribed statutory period, it is then accepted in form.

On Merits: Having taken cognizance of the case papers and documents and granted parties thereto sufficient time to present all arguments and documents, the Department found that the dispute lies in Plaintiff’s objection to Defendant’s decision regarding the imposition of a fine for late registration for VAT; and since Article (3.1) of the Law of Value Added Tax stipulates: “A taxable person shall be obligated to register according to the economic activities he performs in the Kingdom, and in accordance with the provisions stipulated in the Agreement;” and since Article (56.2) of the Implementing Regulations of the Law of Value Added Tax stipulates: “In addition to the other rights provided for in this article, the Authority may access relevant information held by third parties directly from those parties including requiring direct access to records generally on an ongoing basis;” and since Article (41) of the Law of Value Added Tax stipulates: “Any person who fails to apply for registration within the periods specified in the Regulations shall be subject to a fine of 10,000 riyals;” and since Plaintiff’s argument of his ignorance of the provisions of the Law is not a legal justification for exempting him from the imposition of the fine in question, as the provisions of the Articles of the VAT Agreement, the Law of Value Added Tax, and its Implementing Regulations have clarified the concept of tax for economic activity, aspects of its practices, the Mandatory and Optional Registration Thresholds and those concerned with them without ambiguity; and since Defendant stated in its Reply that, having reviewed Plaintiff’s data with (..... Bank), it had found Plaintiff’s supplies have exceeded the Mandatory Registration Threshold; however, Plaintiff did not provide any evidence refuting the same, which necessitated the registration in accordance with Article (3.1) of the said Implementing Regulations; and since Plaintiff did not deny his failure for registration in his statement of claim; rather, he indicated his ignorance of the provisions of the Law; and since Plaintiff has failed to provide any evidence proving that he had not reached the Mandatory Registration Threshold; and since Defendant, based on the information obtained from the third party as stated in Article (56.2) of the said Implementing Regulations, has registered Plaintiff based Article (6.1) thereof; Therefore, the Department satisfies to dismiss Plaintiff’s Case regarding the imposition of the fine for late registration for VAT in the amount of (SAR 10,000).

In light of the above grounds and in accordance with the provisions of the Common VAT Agreement of GCC States, the Law of Value Added Tax and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, **the Department, after deliberation, unanimously decided the following:**



Decision:

First: Accept Plaintiff's Case in form.

Second: Dismiss Plaintiff's Case regarding the fine in question.

This Decision was delivered in presence of Both Parties. The Department has set thirty (30) days for receipt of a copy of this Decision, and it may be extended to another same period as the Department deems appropriate. The Decision is deemed final and enforceable under Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace Be Upon Our Prophet Muhammad and His Family and Companions.

(The Decision is deemed final and imperative by the lapse of the objection period under Article (33.2) of Zakat, Tax, and Customs Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate The Value Added Tax Violations and Disputes in Riyadh

Decision No. (VR-2022-1197)
Delivered in Case No. (V-84038-2021)

Key words:

Value Added Tax – Fine for Late Registration for VAT – Absence of Litigation Element Prevents Consideration of Case – Abatement of Case.

Abstract

Plaintiff (“**Taxpayer**”) filed this Case to abolish Defendant’s (“**ZATCA**”) decision regarding the imposition of a fine for late registration for VAT in the amount of (SAR 10,000).

The Department Found That:

The statutory provisions indicated that “The case is established by the existence of the litigation element, and if such an element is absent or ceases to exist for any reason at any stage of the case; the Department shall rule on the resolution of the dispute.” Also, the fine in question had previously been cancelled.

The Department Decided To:

- Establish cancellation of the fines in question by Defendant.
- Establish abatement of Plaintiff’s Case.

The Decision is deemed final and enforceable.

Instruments:

- **Judicial Principle:** “The case is established by the existence of the litigation element, and if such an element is absent or ceases to exist for any reason at any stage of the case; the Department shall rule on the resolution of the dispute.”

Facts:

Praise Be to Allah and May Blessings and Peace Be Upon Our Prophet Muhammad and Upon All His Family and Companions

On Monday, 13/09/2022 AD, the Department formed pursuant to the provisions of the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (65474) of 23/02/1439 AH, and reformed under Royal Order No. (19575) of 09/04/1442 AH, has convened to consider the above-mentioned Case.

Facts of the Case are summarized as follows: Mr., holder of National ID No., in his capacity as Owner of Establishment, C.R. No.; has filed a statement of claim objecting to the decision issued by Zakat, Tax, and Customs Authority (“**ZATCA**”/ “**Defendant**”) regarding the imposition of the fine for late registration for the Value Added Tax (“**VAT**”) in the amount of (SAR 10,000).

Having presented the statement of claim to Defendant, it stated that the fine in question had previously been cancelled. Therefore, the Case should be dismissed.



On Monday, 13/09/2022 AD, the Department held its first session remotely via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff (Mr., holder of National ID No.) against Defendant (ZATCA). Having called Parties to the Case, Mr., holder of National ID No., in his own capacity as Plaintiff; and Mr., holder of National ID No., appeared in his capacity as Defendant's "ZATCA" Representative, by virtue of Authorization No., dated .../.../... AH, issued by ZATCA's Deputy Governor for Legal Affairs and Compliance. Having verified the presence and the capacity of Parties hereto, the Department decided to proceed with the consideration of the Case. Having asked Plaintiff regarding the Case, he requested to abolish Defendant's decision regarding the imposition of the fine for late registration in the amount of (SAR 10,000) as detailed in his statement of claim. Having asked Defendant's Representative regarding his response, he stated the Defendant had submitted an appended memorandum, stating that Defendant had cancelled the fine in question in the amount of (SAR 10,000), and had requested proof of the abatement of the Case. Having asked Parties hereto whether they had further statements, they were satisfied with their earlier submissions. Therefore, the Department, after discussion, decided to adjourn the hearing for deliberation in preparation for delivering a decision.

Grounds

Having taken cognizance of the case papers and after due examination of its documents, and having taken cognizance of the relevant Laws and Regulations, the Department found that, since it is established that "The case is established by the existence of the litigation element, and if such an element is absent or ceases to exist for any reason at any stage of the case; the Department shall rule on the resolution of the dispute;" and since Defendant has stated that the fines in questions have been canceled; Therefore, the Department satisfies to establish cancellation of the fines in question and abatement of the Case.

Decision:

First: Establish cancellation of the fines in question by Defendant..

Second: Establish abatement of Plaintiff's Case.

This Decision was delivered in presence of Both Parties. The Department has set thirty (30) days for receipt of a copy of this Decision, and it may be extended to another same period as the Department deems appropriate.

May Allah's Blessings and Peace Be Upon Our Prophet Muhammad and Upon His Family and Companions.

(The Decision is deemed final and imperative under Article (42) of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate The Value Added Tax Violations and Disputes in Riyadh

Decision No. (VR-2022-976)
Delivered in Case No. (V-50994-2021)

Key words:

Value Added Tax – Tax Reassessment – Lapse of Statutory Period for Filing an Objection – Plaintiff Shall Initially Submit its Objection to Defendant.

Abstract

Plaintiff (“**Taxpayer**”) filed this Case to abolish Defendant’s (“**ZATCA**”) decision regarding the Reassessment of the tax period for the first, third and fourth quarters of 2018 AD, and the fines resulting therefrom.

The Department Found That:

The documents included in the Case file have established that Plaintiff filed its Case before Defendant on 18/05/2021 AD, yet did not file an objection before Defendant to its decision issued on 14/03/2021 AD. Also, it is established that, according to the general rules for grievances against administrative decisions, Plaintiff shall initially submit its objection to Defendant before submitting its case to the General Secretariat of Tax Committees, which determines that the Plaintiff’s right to object has been forfeited due to the lapse of the statutory period for filing an objection.

The Department Decided To:

Deem the Decision final and enforceable..

Instruments:

- Article (49) of [Law of Value Added Tax Law promulgated by Royal Decree No. \(M/113\) of 02/11/1438 AH.](#)
- Article (2) of [Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. \(26040\) of 21/04/1441 AH.](#)

Facts:

Praise Be to Allah and May Blessings and Peace Be Upon Our Prophet Muhammad and Upon All His Family and Companions

On Tuesday, 16/08/2022 AD, the Department formed pursuant to the provisions of the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (65474) of 23/02/1439 AH, and reformed under Royal Order No. (19575) of 09/04/1442 AH, has convened to consider the Case filed by Plaintiff (..... Factory, C.R. No.) against Defendant (Zakat, Tax, and Customs Authority “ZATCA”).

Facts of the Case are summarized as follows: Mr., holder of National ID No., in his capacity as Plaintiff’s (..... Factory, C.R. No.) Legal Representative, by virtue of Plaintiff’s Article of Association; has filed a statement of claim objecting to Defendant’s (“ZATCA”) regarding the Reassessment of the tax period for the first, third and fourth quarters of 2018 AD and the fines resulting therefrom.



Having presented the statement of claim to Defendant, it submitted a Reply that included the following:

The Case is inadmissible in form since the decision had become immune from being challenged due to Plaintiff's lack of objection before Defendant.

On Wednesday, 03/08/2022 AD, the Department held its first session remotely via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant. Having called Parties to the Case, Mr., holder of National ID No., in his capacity as Plaintiff's Attorney, under POA No.; and Mr., holder of National ID No., appeared in his capacity as Defendant's "ZATCA" Representative, by virtue of Authorization No., dated .../.../... AH, issued by ZATCA's Deputy Governor for Legal Affairs and Compliance. Having verified the presence and the capacity of Parties hereto, the Department decided to proceed with the consideration of the Case. Having asked Plaintiff's Attorney regarding the Case, he requested to abolish Defendant's decision regarding the following: 1. The Reassessment of the tax period for the first quarter of 2018 AD and the imposition of VAT in the amount of (SAR 66,675.09), a fine for submission of incorrect Tax Return in the amount of (SAR 11,350), and a late payment fine in the amount of (SAR 39,724.63); 2. The Reassessment of the tax period for the third quarter of 2018 AD and the imposition of VAT in the amount of (SAR 87,251.78), a fine for submission of incorrect Tax Return in the amount of (SAR 820), and a late payment fine in the amount of (SAR 11,895.51); and 3. The Reassessment of the tax period for the fourth quarter of 2018 AD and the imposition of VAT in the amount of (SAR 32,448.38), a fine for submission of incorrect Tax Return in the amount of (SAR 6,650), and a late payment fine in the amount of (SAR 7,490.33), as detailed in Plaintiff's statement of claim. Having asked Defendant's Representative regarding his response, he stated that the Case is inadmissible in form due to the lapse of the statutory period in accordance with the provisions of Article (49) of the Law of Value Added Tax, as Plaintiff was notified of the notice of the imposition of the fines on 14/03/2021 AD, while it did not file its Case until 18/05/2021 AD. Having asked Parties hereto whether they had further statements, Plaintiff's Attorney stated that the reason for the late filing of the Case was due to the absence of a decision to object thereto before Defendant and requested a continuance to check with Plaintiff and provide the Department with a response at the following hearing. Therefore, after deliberation, the Department decided to respond to the request of Plaintiff's Attorney by granting him a two-week period to submit the required documents, provided that Defendant's Representative is provided with a copy thereof whereby he may respond thereto at his sole discretion, and to postpone the consideration of the Case to Monday, 16/08/2022 AD.

On Monday, 16/08/2022 AD, the Department held its second session remotely via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant. Having called Parties to the Case, Mr., holder of National ID No., in his capacity as Plaintiff's Attorney, under POA No.; and Mr., holder of National ID No., appeared in his capacity as Defendant's "ZATCA" Representative, by virtue of Authorization No., dated .../.../... AH, issued by ZATCA's Deputy Governor for Legal Affairs and Compliance. Having verified the presence and the capacity of Parties hereto, the Department decided to proceed with the consideration of the Case. Having asked Plaintiff's Attorney regarding his request in the previous hearing, he stated that a detailed Replication had been submitted in response to the Reply submitted by Defendant. He added that Plaintiff had been unable to communicate with Defendant either during or after the holiday regarding the technical malfunction. Having asked Defendant's Representative regarding his response, he stated that a detailed Rejoinder had been submitted in response to the Replication submitted by Plaintiff. He added that Plaintiff had not contacted Defendant until six months after the date of the notice of the fine, according to the mail attached to the Case file. Therefore, the Department, after discussion, decided to adjourn the hearing for deliberation in preparation for delivering a decision.



Grounds



Having taken cognizance of the case papers and after due examination of its documents, and having taken cognizance of the relevant Laws and Regulations, the Department found that, since consideration of such a case is conditional upon filing an objection before ZATCA “Defendant” within sixty (60) days from the date of notice, pursuant to Article (2) of Tax Dispute and Violation Committee Procedures, promulgated by Royal Order No. (26040) of 21/04/1441 AH; and since the documents included in the Case file have established that Plaintiff filed its Case before Defendant on 18/05/2021 AD, yet did not file an objection before Defendant to its decision issued on 14/03/2021 AD; and since it is established that, according to the general rules for grievances against administrative decisions, Plaintiff shall initially submit its objection to Defendant before filing its case to the General Secretariat of Tax Committees, which determines that the Plaintiff’s right to object has been forfeited due to the lapse of the statutory period for filing an objection.

Decision:

First: Dismiss Plaintiff’s Case in form.

Second: This Decision was delivered in presence of Both Parties. The Department has set thirty (30) days for receipt of a copy of this Decision, and it may be extended to another same period as the Department deems appropriate. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision is deemed final and enforceable.

May Allah’s Blessings and Peace Be Upon Our Prophet Muhammad and Upon His Family and Companions.

(The Decision is deemed final and imperative by the lapse of the objection period under Article (33.2) of Zakat, Tax, and Customs Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate The Value Added Tax Violations and Disputes in Riyadh

Decision No. (VR-2022-978)
Delivered in Case No. (V-84599-2021)

Key words:

Value Added Tax – Final Reassessment – Fine for Submission of Incorrect Tax Return – Late Payment Fine – Sales Fully Paid Prior to Enforcement of Law of Value Added Tax.

Abstract

Plaintiff (“**Taxpayer**”) filed this Case to abolish Defendant’s (“**ZATCA**”) decision regarding the Final Reassessment of the tax period for the first quarter of 2018 AD and the imposition of an additional VAT in the amount of (SAR 2,920,569), a fine for submission of an incorrect Tax Return for the first quarter of 2019 AD in the amount of (SAR 1,518,059.48), and a late payment fine in the amount of (SAR 6,072,237.94), wherein Plaintiff claimed that these supplies preceded the enforcement of the Law of Value Added Tax, while Defendant argued that it had amended the amount of Plaintiff’s sales for the tax period in question to become (SAR 60,722,379.38) instead of (SAR 0.00) since they were revenues that had not been declared by Plaintiff.

The Department Found That:

The details of Plaintiff’s sales have shown that the revenues added by Defendant to his Tax Return had included sales whose value was fully paid before the Law of Value Added Tax came into effect, as well as sales that were not paid or whose value was not fully paid until after the same Law came into effect, which determines that Plaintiff is entitled to subject the sales whose value was fully paid before that Law came into effect to the zero tax rate, and to subject the other sales to the VAT at the basic rate.

The Department Decided To:

Abolish Defendant’s decision regarding the Reassessment of the first quarter of 2018 AD and return the same to Defendant to calculate the tax amount and any fines resulting therefrom after excluding supplies for which full payment was made prior to the enforcement of the Law of Value Added Tax.

The Decision is deemed final and enforceable.

Instruments:

- Articles (1), (5.2), and (23.2) of [Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) of 03/05/1438 AH.](#)
- Article (2) of [the Law of Value Added Tax, promulgated by Royal Decree No. \(M/113\) of 02/11/1438 AH.](#)
- Articles (14) and (56.2) of [Implementing Regulations of The Law of Value Added Tax, issued by ZATCA “Previously GAZT” Board of Directors Decision No. \(3839\) of 14/12/1438 AH.](#)

Facts:





Praise Be to Allah and May Blessings and Peace Be Upon Our Prophet Muhammad and Upon All His Family and Companions

On Thursday, 16/06/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to the provisions of the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (17218) of 27/03/1442 AH, held its session to consider the above-mentioned Case. Since the Case satisfied the prescribed regulatory procedures, it was filed with the General Secretariat of Tax Committees under the above number on 01/12/2021 AD.

Facts of the Case are summarized as follows: Mr., holder of National ID No., in his own capacity, has filed a statement of claim objecting to the decision issued by Zakat, Tax, and Customs Authority (“ZATCA”/ “Defendant”) regarding the Final Reassessment of the tax period for the first quarter of 2018 AD and the imposition of an additional VAT in the amount of (SAR 2,920,569), a fine for submission of an incorrect Tax Return for the first quarter of 2019 AD in the amount of (SAR 1,518,059.48), and a late payment fine in the amount of (SAR 6,072,237.94), and requested abolishment of Defendant’s decision.

Having presented the statement of claim to Defendant, it submitted a Reply that included the following:

- With regard to the amendment of item (Taxable Local Sales at Basic Rate), Defendant clarifies that it made the Reassessment in accordance with the provisions of Article (26.1) of the Law of Value Added Tax and Article (64.1) of its Implementing Regulations. In addition, Defendant is entitled to directly and continuously have access to information related to the tax. Accordingly, Defendant reviewed Plaintiff’s data held by the Ministry of Justice and found that there were undeclared revenues. Consequently, Defendant subjected these revenues to the basic tax rate.
- With regard to the “Fine for Submission of Incorrect Tax Return” and the “Late Payment Fine,” Defendant clarifies that, having reviewed Plaintiff’s Tax Return for the tax period in question, it was found that the Tax Return was invalid, which necessitated amending the same, resulting in a difference between the calculated and due tax that was not paid within the statutory deadline. Accordingly, Defendant imposed a “Fine for Submission of Incorrect Tax Return,” as well as a “Late Payment Fine” for the months following the tax period in question. Defendant concluded by requesting dismissal of Plaintiff’s Case.

Plaintiff then submitted a Replication that included the following:

- With regard to the amendment of item (Taxable Local Sales at Basic Rate), Plaintiff clarifies the following:
 1. The amendment of the sales value made by Defendant was for the sale of plots of land for which contracts were concluded, the full value collected, and ownership transferred by means of official sales contracts and checks deposited into the seller’s account, and the buyers had acquired the land in legal possession and had full rights to dispose of the same prior to the enforcement of the Law of Value Added Tax and its applications. In addition, the procedure made at the notary public at the Ministry of Justice was merely the registration of the sale, which cannot be considered the final decision in the sale, as the sale is concluded by an offer and acceptance from both parties to the contract.
 2. According to Article (5.2) of the Common VAT Agreement of GCC States, the supply of the good (plots of land) took place by transferring possession of the good as per the copies of the sales contracts and documents supporting the full payment of the sale value pursuant to the attached bank statements proving the deposit of the full sale value, which is also prior to the date of enforcement of the Law of Value Added Tax.
 3. According to Article (23.2) of the Common VAT Agreement of GCC States, Plaintiff provided Defendant with certificates from the buyers stating that the goods were placed at their disposal prior to the date of enforcement of the Law of Value Added Tax.
 4. The transitional provisions guideline includes rules for the date of non-continuous supply of goods, stating that “the non-continuous supplies of goods and services supplied before January 1,



2018, are not subject to value-added tax,” which indicates that plots of land sold before the said date are not subject to the application of the Law of Value Added Tax.

- With regard to the “Fine for Submission of Incorrect Tax Return” and the “Late Payment Fine,” Plaintiff clarifies that the VAT imposed by Defendant is incorrect. Plaintiff concluded by requesting abolishment of Defendant’s decision for the stated grounds.

On Thursday, 02/06/2022 AD, the Department held its first session remotely via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff (Mr., holder of National ID No.) against Defendant (ZATCA). Having called Parties to the Case, Mr., holder of National ID No., in his own capacity as Plaintiff; and Mr., holder of National ID No., appeared in his capacity as Defendant’s “ZATCA” Representative, by virtue of Authorization No., dated .../.../... AH, issued by ZATCA’s Deputy Governor for Legal Affairs and Compliance. Having verified the presence and the capacity of Parties hereto, the Department decided to proceed with the consideration of the Case. Having asked Plaintiff regarding the Case, he requested to cancel Defendant’s decision regarding the Final Reassessment of the tax period for the first quarter of 2018 AD and the imposition of an additional VAT in the amount of (SAR 2,920,569), a fine for submission of an incorrect Tax Return for the first quarter of 2019 AD in the amount of (SAR 1,518,059.48), and a late payment fine in the amount of (SAR 6,072,237.94), as detailed in his statement of claim. Having asked Defendant’s Representative regarding his response, he adhered to the validity and soundness of Defendant’s decision, as detailed in the Reply submitted by Defendant in response to Plaintiff’s statement of claim. Having asked Parties hereto whether they had further statements, Plaintiff’s Attorney stated that Plaintiff’s supplies consisted of five supplies of a group of properties; three supplies were in 2013, one in 2017, all before the date of enforcement of the Law of Value Added Tax, and another one in 2018. However, Defendant imposed tax and fines on that supply, despite the fact that the property was returned to Plaintiff by the buyer. Defendant’s Representative stated that the transfer of ownership of the property took place after the Law of Value Added Tax came into effect and that possession of the property is achieved by transferring the Title Deed. Plaintiff’s Attorney added that the transfer of ownership reveals the sale process that took place prior to the Law of Value Added Tax coming into effect and that Article (23.2) of the Common VAT Agreement of GCC States clarifies the transfer of the good (real estate) to the customer without transportation or dispatch. Therefore, after discussion, the Department decided to close pleadings for deliberation and set the date of Thursday, 16/06/2022 AD, as the date for delivering its decision.

On Thursday, 16/06/2022 AD, the Department held its second session remotely via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant. Having called Parties to the Case, Mr., holder of National ID No., in his capacity as Plaintiff’s Attorney, under POA No.; and Mr., holder of National ID No., appeared in his capacity as Defendant’s “ZATCA” Representative, by virtue of Authorization No., dated .../.../... AH, issued by ZATCA’s Deputy Governor for Legal Affairs and Compliance. Having verified the presence and the capacity of Parties hereto, the Department decided to proceed with the consideration of the Case. Since the Case was set for adjudication in the previous hearing to the date of this hearing, the Department hereby delivers its decision thereto.

Grounds

Having taken cognizance of the case papers and after due examination of its documents, having perused the Income Tax law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by the Minister of Finance’s Decision No. (1535) of 11/06/1425 AH, as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by issued by ZATCA “Previously GAZT” Board of Directors Decision No. (3839) of 14/12/1438



AH, as amended, the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 11/06/1441 AH, and the Common VAT Agreement of GCC States, as well as other relevant laws and regulations, the Department has decided to consider the Case.

In Form: Since Plaintiff filed the Case to abolish Defendant's decision regarding the Final Reassessment of the tax period for the first quarter of 2018 AD, in accordance with the Law of Value Added Tax and its Implementing Regulations; and since this dispute is a Tax dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes under Royal Decree No. (26040) of 21/04/1441 AH; and since the Case was filed by a party having capacity and within the prescribed statutory period, it is then accepted in form.

On Merits: Having taken cognizance of the case papers and documents and granted parties thereto sufficient time to present all arguments and documents, the Department found that the dispute lies in Plaintiff's objection to Defendant's decision regarding the Final Reassessment of the tax period for the first quarter of 2018 AD and the imposition of an additional VAT in the amount of (SAR 2,920,569), a fine for submission of an incorrect Tax Return for the first quarter of 2019 AD in the amount of (SAR 1,518,059.48), and a late payment fine in the amount of (SAR 6,072,237.94), wherein Plaintiff claimed that these supplies preceded the enforcement of the Law of Value Added Tax, while Defendant argued that it had amended the amount of Plaintiff's sales for the tax period in question to become (SAR 60,722,379.38) instead of (SAR 0.00) since they were revenues that had not been declared by Plaintiff after matching the data received from the Ministry of Justice in accordance with the powers granted to Defendant in Article (56.2) of the Implementing Regulations of the Law of Value Added Tax; and since the details of Plaintiff's sales have shown that the revenues added by Defendant to his Tax Return had included sales whose value was fully paid before the Law of Value Added Tax came into effect, as well as sales that were not paid or whose value was not fully paid until after the same Law came into effect, which determines that Plaintiff is entitled to subject the sales whose value was fully paid before that Law came into effect to the zero tax rate, and to subject the other sales to the VAT at the basic rate; and since Article (1) of the Common VAT Agreement of GCC States defined "Taxable Supplies" as: "Supplies on which Tax is charged in accordance with the provisions of the Agreement, whether at the standard rate or zero-rate, and for which associated Input Tax is deducted in accordance with the provisions of the Agreement;" and since Article (2) of the Law of Value Added Tax stipulates: "Tax shall be imposed on the import and supply of Goods and Services in accordance with the provisions stipulated in the Agreement, the Law and the Regulations;" and since Article (14) of the Implementing Regulations of the Law of Value Added Tax stipulates: "Without prejudice to the second article of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, Tax is imposed on all Taxable Supplies of Goods and Services made in the Kingdom by a Taxable Person or received in the Kingdom by a Taxable Person in instances where the Reverse Charge Mechanism applies, as well as on imports of goods; Therefore, the Department satisfies to abolish Defendant's decision regarding the Reassessment of the first quarter of 2018 AD and return the same to Defendant to calculate the tax amount and any fines resulting therefrom after excluding supplies for which full payment was made prior to the enforcement of the Law of Value Added Tax.

In light of the above the grounds and after deliberation, the Department unanimously decided the following:

Decision:

First: Accept Plaintiff's Case in form.

Second: On Merits: Abolish Defendant's decision regarding the Reassessment of the tax period for the first quarter of 2018 AD and the imposition of an additional VAT in the amount of (SAR 2,920,569), a fine for submission of an incorrect Tax Return for the first quarter of 2019 AD in the amount of (SAR 1,518,059.48), and a late payment fine in the amount of (SAR 6,072,237.94), and return the same to Defendant to calculate the tax amount and any fines resulting therefrom



after excluding supplies for which full payment was made prior to the enforcement of the Law of Value Added Tax.

Third: This Decision was delivered in the presence of Both Parties. Parties hereto may appeal against this Decision under Law within thirty (30) days from the date of depositing thereof in the e-system of the General Secretariat of Zakat, Tax and Customs Committees, whereafter the Decision is deemed final and enforceable. Date of depositing the Decision in the e-system of the General Secretariat of Zakat, Tax and Customs Committees is considered the date of its delivery.

May Allah's Blessings and Peace Be Upon Our Prophet Muhammad and Upon His Family and Companions.

(The Decision is deemed final and imperative by the lapse of the objection period under Article (33.2) of Zakat, Tax, and Customs Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate The Value Added Tax Violations and Disputes in Riyadh

Decision No. (VR-2022-1020)
Delivered in Case No. (V-57531-2021)

Key words:

Value Added Tax - Late Payment Penalty - The Principle of Bearing the Burden of VAT Payment as an Indirect Tax on Goods and Services Lies with the Customer - The Principle of Paying the Due Tax to the Competent Authority Rests with the Taxable Person - Statutory Period.

Abstract

The Plaintiff seeks to obligate the Defendant to pay Value Added Tax amounting to (SAR 41,550), resulting from the sale of two properties to the Defendant, and a late payment penalty amounting to (SAR 15,061.88) - The Department established the occurrence of the supply subject to the case, which included only the sale value without the Value Added Tax amount. Given that the principle of bearing the burden of VAT payment as an indirect tax on received goods and services lies with the customer or buyer, and considering the Plaintiff's registration for Value Added Tax, the Department finds merit in accepting the Plaintiff's claim regarding this item. Concerning the Plaintiff's demand for the Defendant to pay the late payment penalty, and considering that the principle of paying the due tax to the competent authority (ZATCA) rests with the taxable person, the Department finds merit in rejecting the Plaintiff's request regarding this item - Resulting in: Obligating the Defendant to pay the Plaintiff the Value Added Tax amount of (SAR 41,550), and dismissing all other requests - Considering the decision final and enforceable.

Instruments:

- Article (1/40) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Articles (8/67) of [Income Tax Law amended by Royal Decree No. \(M/113\).](#)
- Article (43) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Article (14) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) on 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 20/06/2022, the First Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh, established pursuant to the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH and its amendments, and formed by Royal Order No. (65474) dated 23/12/1439 AH, and reconstituted by Royal Order No. (19575) dated 09/04/1442 AH, convened to consider the aforementioned case. The case having met the prescribed regulatory requirements, it was lodged with the General Secretariat of Zakat, Tax and Customs Committees on 04/07/2021.



The facts of this case are summarized as follows:, National ID No. (.....), in his capacity as the Plaintiff's attorney by virtue of PoA No. (.....), submitted a statement of claim that included a demand to obligate the Defendant, ..., National ID No. (.....), to pay Value Added Tax amounting to (SAR 41,550), resulting from the sale of two properties to the Defendant, and a late payment penalty amounting to (SAR 15,061.88).

On Sunday, 29/05/2022, the Department held its first session via video conference (remotely) to consider the case filed by, National ID No. (.....), against, National ID No. (.....). Upon calling the parties to the case, neither the Plaintiff nor their attorney appeared, despite confirmation of their notification of the session date via the email registered in the case file. Similarly, neither the Defendant nor their representative appeared, despite confirmation of their notification of the session date via the email registered in the case file. As the Plaintiff or their attorney did not attend this session despite confirmed notification, the Department decided to strike the case off the docket.

On 29/05/2022, the Plaintiff requested to proceed with the case.

On Monday, 20/06/2022, the Department held its first session after striking off the docket via video conference (remotely) to consider the case filed by, National ID No. (.....), against, National ID No. (.....). Upon calling the parties to the case, ..., National ID No. (.....), appeared as the Plaintiff's attorney by virtue of PoA No. (.....), while neither the Defendant nor their representative appeared, despite confirmation of their notification of the session date via the email registered in the case file. After verifying the identity of the Plaintiff's attorney by displaying his National ID card via an enlarged window and confirming his capacity, the Department decided to proceed with the hearing of the case. The Plaintiff's attorney (the seller) requested obligating the Defendant (the buyer) to pay the Value Added Tax amount of (SAR 41,550) resulting from the sale of real estate (two plots of land) to the Defendant, in addition to the late payment penalty amount of (SAR 15,061.88), based on the details outlined in the statement of claim. Given the aforementioned, and considering that the Defendant or their representative did not attend this session despite confirmed notification, and that the case is ready for adjudication, the Department, after discussion, decided to close the pleadings and adjourn the session for deliberation and issuance of the ruling.

Grounds

Having reviewed Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH and its amendments, its Implementing Regulations issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH and their amendments, and having reviewed Zakat, Tax, and Customs Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH, and other relevant laws and regulations.

As in form, considering that the Plaintiff filed the case via e-portal on 04/07/2022, and the due date for the claimed amount is 30/04/2019, the case was filed within the statutory period stipulated in Article 67(8) of the Income Tax Law amended by Royal Decree No. (M/113): "Tax dispute cases may not be heard upon the lapse of five years from the maturity date of the amount subject of the claim, or the date of knowledge of the incident subject to the dispute, except in the presence of Grounds acceptable by the Committee", which means that the case must be accepted in form. On merits, upon the Department's review of the case file and the responses of both parties after granting them sufficient time to present their statements and submissions, it is established that the dispute lies in the Plaintiff's demand for the Defendant to pay the outstanding Value Added Tax amounting to (SAR 41,550) and the late payment penalty resulting from the sale of two properties to the Defendant under Title Deed No. (.....) for Plot No. (.....) and Title Deed No. (.....) for Plot No. (.....) of Scheme No. (Q/791) in Al-..... District in Buraydah City, dated 23/06/1440 AH (corresponding to 28/02/2019 AD). Concerning the demand for the payment of Value Added Tax, and as the Department has established the occurrence of the supply subject to the case according to Title Deed No. (.....) and Title Deed No. (.....), and as the Plaintiff



submitted Check No. (.....) dated (28/02/2019 AD) issued by Bank for the value of Plot No. (.....) and Plot No. (.....) of Scheme No. (Q/791), which included only the sale value without the Value Added Tax amount. Given that the principle of bearing the burden of VAT payment as an indirect tax on received goods and services lies with the customer or buyer (the recipient of the goods and services), and considering the Plaintiff's registration for Value Added Tax under Tax Identification Number (.....) and their liability to Value Added Tax at the time of concluding the sale with the Defendant, and as Article (14) of the Implementing Regulations of the Value Added Tax Law stipulates that: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom." Therefore, the Department finds merit in accepting the Plaintiff's claim regarding this item.

Concerning the Plaintiff's demand for the Defendant to pay the late payment penalty resulting from the delay in payment amounting to (SAR 15,061.88), and considering that the principle of paying the due tax to the competent authority (ZATCA) rests with the taxable person according to the general principle stipulated in Article 40 (1) of the Common Agreement, upon which the penalty was imposed due to the Plaintiff's failure to comply with the provisions of the Common Agreement, Law, and the Implementing Regulations of the Value Added Tax, and as Article 40(1) of the Common VAT Agreement of the GCC stipulates that: "1. The Taxable Person is obligated to pay Tax due on taxable supplies of Goods and Services to the Competent Tax administration in the Member State in which the place of supply is located." Moreover, Article (43) of the VAT Law provides: "Any person who fails to pay the tax due within the period specified by the Regulations shall be subject to a fine equal to 5% of the amount of the unpaid tax for each month or part thereof for which the tax is not paid." Therefore, the Department finds merit in dismissing the Plaintiff's request regarding this item.

Decision:

First: Accept Plaintiff's case in form.

Second: On merits: The Defendant, ..., National ID No. (.....), is obligated to pay the Plaintiff, ..., National ID No. (.....), the Value Added Tax amount of (SAR 41,550), and all other requests are hereby dismissed.

Third: This ruling is rendered in the presence of the Plaintiff and constructively in the presence of the Defendant. Either party to the case may file an appeal against this ruling within thirty (30) days from the day following the date designated for the receipt of the ruling. The ruling shall be considered final and enforceable upon the expiry of this period, and the date the ruling is made available on GSTC e-portal shall be considered the date of delivery of the ruling.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate The Value Added Tax Violations and Disputes in Riyadh

Decision No. (VR-2022-1015)
Delivered in Case No. (V-91773-2021)

Key words:

Value Added Tax - Supply Under Dispute - VAT Registration Certificate - The Default Assumption Regarding Bearing the Burden of Tax Payment as an Indirect Tax on Received Goods and Services is the Customer - Rights Do Not Lapse by Prescription - Statutory Period.

Abstract

The Plaintiff seeks to compel the Defendant to pay Value Added Tax (VAT) amounting to (SAR 600,000), arising from the sale of five (5) properties to the Defendant, and legal fees of (SAR 100,000). The Department established the occurrence of the supply in question, which the Defendant acknowledged. The Defendant argued that the Plaintiff did not provide a VAT registration certificate at the time of property transfer and that the agreed price included VAT. However, given the principle that the customer generally bears the burden of indirect taxes such as VAT on goods and services received, and considering the Plaintiff's proven VAT registration, the Department upheld the Plaintiff's claim regarding the VAT. Regarding the claim for legal fees of (SAR 100,000), the Department reviewed the case file and supporting documents but found no evidence to substantiate the Plaintiff's claim or the incurred costs. Consequently, the Department dismissed the Plaintiff's claim for legal fees. - Ruling: The Defendant is obligated to pay the Plaintiff the sum of (SAR 600,000), representing the Value Added Tax, and all other claims are dismissed. This decision is deemed final and enforceable.

Instruments:

- Article (25) of [Common VAT Agreement of GCC States, issued by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Articles (8/67) of [Income Tax Law amended by Royal Decree No. \(M/113\).](#)
- Article (14) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) on 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 20/06/2022, the First Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh, established pursuant to the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH and its amendments, and formed by Royal Order No. (65474) dated 23/12/1439 AH, and reconstituted by Royal Order No. (19575) dated 09/04/1442 AH, convened to consider the aforementioned case. The case having met the prescribed regulatory requirements, it was lodged with the General Secretariat of Zakat, Tax and Customs Committees on 20/01/2022.



The facts of this case are summarized as follows: ..., holding National ID No. (...), acting as the attorney of the Plaintiff by virtue of PoA No. (...), submitted a statement of claim including a request to compel the Defendant, ..., holding National ID No. (...), to pay Value Added Tax (VAT) amounting to (SAR 600,000), resulting from the sale of five properties to the Defendant, and legal fees of (SAR 100,000).

The Defendant also submitted a memorandum of response, which is summarized as follows: Firstly, the Defendant acknowledges the Plaintiff's statement regarding the transfer of ownership of the aforementioned land parcels to the Defendant and the Plaintiff's receipt of the full value. Secondly, the Defendant disputes the Plaintiff's claim that the price did not include Value Added Tax. The Defendant argues that the Plaintiff's delay in claiming the VAT, despite the transfer of ownership occurring approximately four years prior, raises suspicion and doubt about the malicious intent of the case. Furthermore, the Defendant contends that the amount paid was inclusive of VAT and that the Plaintiff failed to attach a VAT registration certificate. The Defendant concluded their request by seeking the dismissal of the Plaintiff's claim and the imposition of legal fees on the Plaintiff.

Plaintiff then submitted a Replication that included the following: First: Regarding the Defendant's claim that the delay in filing the lawsuit indicates its malicious intent, this is a baseless assertion lacking any supporting evidence. The Defendant should be aware that rights do not lapse by prescription, and their argument is unfounded, unsubstantiated, and carries no weight. Second: Secondly, concerning the Defendant's contention that the paid amount was inclusive of Value Added Tax and that the Plaintiff's claim contradicts Article (25) of the Common Value Added Tax Agreement, the response lies within the Article itself. The Article explicitly pertains to (goods and services) and not to the VAT applicable to real estate. Therefore, the Defendant's argument is invalid and incorrect. The fundamental principle regarding real estate tax is that the buyer bears the responsibility for it, while the seller is accountable for remitting it to ZATCA. Consequently, the Defendant, as the buyer, is liable for the Value Added Tax, as the Plaintiff, being the seller, has already remitted it to ZATCA. The Plaintiff concluded the memorandum by requesting to compel the Defendant to pay the Value Added Tax and the legal fees.

The Defendant also submitted a three-page memorandum of response.

On Monday, 20/06/2022, the Department held its first hearing via video conference (remotely) to consider the case filed by ..., holding National ID No. (...), against ..., holding National ID No. (...). Upon calling the parties to the case, ..., holding National ID No. (...), appeared as the attorney of the Plaintiff by virtue of PoA No. (...), and ..., holding National ID No. (...), appeared as the attorney of the Defendant by virtue of PoA No. (...). After verifying the identities of the parties present by displaying their National ID cards through an enlarged window and confirming their respective capacities, the Department decided to proceed with the case. The Plaintiff's attorney (the seller) requested to compel the Defendant (the buyer) to pay the Value Added Tax amounting to (SAR 600,000), resulting from the sale of five land parcels to the Defendant, in addition to legal fees of (SAR 100,000), based on the details provided in the statement of claim. When the Defendant's attorney was questioned about their response to the Plaintiff's claim, they stated that the sale price included Value Added Tax, as agreed upon, although no written contract exists. This was based on the details provided in the memorandum of response submitted in reply to the Plaintiff's claim. When both parties were asked if they had anything further to add, each party stated that they would rely on what had already been presented. Whereas the matter was mentioned, and after discussion, the Department decided to close the pleading and adjourn the session for deliberation and issuance of a decision.

Grounds

Having reviewed the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH and its amendments, and its Implementing Regulations issued by the Minister of Finance's Decision No. (1535) dated 11/06/1425 AH and its amendments, and having reviewed the



Customs Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH, and other relevant laws and regulations.

As in form, considering that the Plaintiff filed the case via e-portal on 20/01/2022, and the due date for the claimed amount is 29/04/2018, the case was filed within the statutory period stipulated in Article 67(8) of the Income Tax Law amended by Royal Decree No. (M/113): “Tax dispute cases may not be heard upon the lapse of five years from the maturity date of the amount subject of the claim, or the date of knowledge of the incident subject to the dispute, except in the presence of Grounds acceptable by the Committee”, which means that the case must be accepted in form. On merits, upon the Department's review of the case file and the responses of both parties after granting them sufficient time to present their arguments and evidence, it is established that the dispute lies in the Plaintiff's claim against the Defendant for the payment of the outstanding Value Added Tax (VAT) amounting to (SAR 600,000), resulting from the sale of five (5) properties to the Defendant for a total value of (SAR 12,000,000), detailed as follows: (1) Property valued at (SAR 1,100,000) as per the cheque drawn on ... Bank, No. (...), dated (29/04/2018), for Plot No. (...), Scheme (...), District (2) Property valued at (SAR 1,100,000) as per the cheque drawn on ... Bank, No. (...), dated (29/04/2018), for Plot No. (...), Scheme (...), District (3) Property valued at (SAR 4,350,000) as per the cheque drawn on ... Bank, No. (...), dated (02/05/2018), representing the value of the lands in Title Deed (...). (4) Property valued at (SAR 1,100,000) as per the cheque drawn on ... Bank, No. (...), dated (29/04/2018), for Plot No. (...), Scheme (...), District (5) Property valued at (SAR 4,350,000) as per the cheque drawn on ... Bank, No. (...), dated (02/05/2018), representing the value of the lands in Title Deed (...). Regarding the claim for the payment of Value Added Tax, and whereas the Department has established the occurrence of the supply under dispute, and the Defendant has acknowledged the disputed supply, arguing that the Plaintiff did not provide a VAT registration certificate at the time of property transfer and that the price was inclusive of VAT, and considering that the default assumption for bearing the burden of tax payment as an indirect tax on received goods and services is the customer or the buyer (the recipient of the goods and services), and whereas the Plaintiff's VAT registration under Tax Identification Number (...) has been established, and the Plaintiff has declared the supplies under dispute and paid the due tax for the second quarter of 2018 as evidenced by the payment receipt notification and the received amount under reference number (65001486136) dated (30/03/2021); thus, the Plaintiff is considered a VAT-registered person at the time of concluding the sale with the Defendant, and whereas Article (14) of the Implementing Regulations of the Value Added Tax Law stipulates that: “Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom.” Therefore, the Department finds merit in accepting the Plaintiff's claim regarding this item.

Regarding the claim for legal fees amounting to (SAR 100,000), upon reviewing the case file and the attached documents, the Department found no evidence to support the asserted claim, nor did the Plaintiff provide the Department with any proof of these costs. Consequently, the Department finds merit in dismissing the Plaintiff's request concerning this item.

For these reasons, and after due deliberation in accordance with the Law, the Department unanimously decided the following:

Decision:

First: Accept Plaintiff's case in form.

Second: On merits: The Defendant, ..., holding National ID No. (...), is obligated to pay the Plaintiff, ..., holding National ID No. (...), the amount of Value Added Tax, totaling (SAR 600,000), and all other claims are dismissed.



Third: This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days as it deems appropriate. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. The decision shall become final and enforceable after expiration hereof.



Value-Added Tax

Determination Committee

First Department to Adjudicate The Value Added Tax Violations and Disputes in Riyadh

Decision No. (VR-2022-1087)
Delivered in Case No. (V-50062-2021)

Key words:

Value Added Tax - Final Reassessment - Domestic Sales Subject to the Standard Rate - Revenue Item Prior to VAT Registration Date - Statutory Period - Dismissal of the Case.

Abstract

The Plaintiff seeks the annulment of the Zakat, Tax and Customs Authority's (ZATCA) final reassessment decision for the tax periods pertaining to the third and fourth quarters of 2018, and the months of January, February, March, April, May, June, July, August, and October of 2019. ZATCA responded that the original assessment is presumed correct and valid, and the burden of proof lies with the claimant to demonstrate otherwise, as ZATCA exercised its authority in conducting a tax assessment for the disputed periods. The Department has established the following: First: Regarding the item of domestic sales subject to the standard rate: Concerning revenues outside the scope of VAT, and whereas the Plaintiff objects on the Grounds that its revenues are not subject to tax, and considering that the Plaintiff's commercial registration indicates its activity as "Other information services activities not classified elsewhere," the Department finds that since the supplier is established in the Kingdom of Saudi Arabia, the service is subject to VAT. Regarding the revenues of ... Bahrain, and whereas the Plaintiff objects arguing that ... Bahrain's revenues are subject to VAT at a zero percent rate, and considering that the Plaintiff has not provided any evidence to substantiate its claim, the Department concludes that ZATCA's procedure is correct and dismisses the Plaintiff's claim on this item. Second: Item of revenues of Saudi Arabia Co. Ltd. Referring to the attachments of the lawsuit, it is evident that the Plaintiff has not provided any evidence to substantiate its claim. Therefore, the Department finds ZATCA's procedure to be correct and dismisses the Plaintiff's claim on this item. Third: Item of revenues prior to the VAT registration date: Considering that the Plaintiff has not provided sufficient supporting documents to clarify the non-subjection of these amounts to Value Added Tax, the Department concludes that ZATCA's procedure is correct and dismisses the Plaintiff's claim on this item. - Outcome: The Plaintiff's case, ..., Commercial Registration No. (...), seeking the annulment of ZATCA's decision regarding the reassessment of the third quarter of 2018 and the imposition of Value Added Tax amounting to (SAR 1,591,021.88), and the annulment of ZATCA's decision regarding the remaining items, is dismissed. - The decision is considered final and enforceable.

Instruments:

- Articles (14), (18), and (33) of [the Implementing Regulations of the Value Added Tax Law, issued by the Board of Directors of the General Authority for Zakat and Tax Resolution No. \(3839\) dated 14/12/1438 AH.](#)



Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Thursday, 16/06/2022, First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/05/1425 AH, as amended, and Royal Order No. (17218) dated 27/03/1442 AH, met for the purpose of considering the abovementioned case. Since the case fulfilled the established regulatory requirements, it was filed with General Secretariat of Zakat, Tax and Customs Committees on 05/05/2021.

The facts of this case are summarized as follows: ..., a company with Commercial Registration No. (...), represented by ..., holder of Resident ID No. (...), in their capacity as the company's legal representative according to AoA, filed a statement of claim objecting to the decision of the Zakat, Tax and Customs Authority (ZATCA) regarding the final reassessment for the tax period related to the third quarter of 2018, imposing a Value Added Tax (VAT) of (SAR 1,591,021.88); the fourth quarter of 2018, imposing a VAT of (SAR 1,061,586.21); January 2019, imposing a VAT of (SAR 352,630.55); February 2019, imposing a VAT of (SAR 353,331.25); March 2019, imposing a VAT of (SAR 398,152.83); April 2019, imposing a VAT of (SAR 359,698.34); May 2019, imposing a VAT of (SAR 878,530.98); June 2019, imposing a VAT of (SAR 16,504.27); July 2019, imposing a VAT of (SAR 3,289.69); August 2019, imposing a VAT of (SAR 181,802.67); and October 2019, imposing a VAT of (SAR 1,485,877.53). The Plaintiff seeks the annulment of the Defendant's decision.

Having presented the statement of claim to Defendant, it submitted a Reply that included the following: The principle is that the decision is presumed to be valid and sound, and the burden of proof lies with the party claiming otherwise. ZATCA initially notes that the Plaintiff is a branch of a foreign limited liability company headquartered in the United Arab Emirates. The branch was established to implement the communication strategy and plan, institutional building, international communication, creative campaigns, and special projects in Riyadh for the benefit of the Ministry of Culture, as evidenced by its commercial registration certificate and approved financial statements. Consequently, it will be considered a resident in the Kingdom. ZATCA exercised its powers by conducting a tax assessment for the periods under dispute, specifically regarding the adjustment of the export item and subjecting the Plaintiff's revenues to the standard VAT rate: During the examination and audit process, ZATCA identified revenues recorded in the approved financial statements for the years 2018 and 2019 that were not disclosed in the tax returns. It became clear that the Plaintiff classified these revenues as exports subject to the zero percent VAT rate. However, it was found that the Plaintiff's revenues originated from a single source, which is the contract concluded with the Ministry of Culture dated July 15, 2017 (Attachment 1). Upon reviewing the contract and its appendices, it is evident that the client, the "Ministry of Culture", is a resident in the Kingdom of Saudi Arabia and benefits from the services provided within its place of residence in the Kingdom. This confirms that the supply did not meet the conditions stipulated in Article 33 of the Implementing Regulations of the Value Added Tax Law issued on 12/01/2018, and the same article after the amendment issued on 28/10/2020, to be treated as subject to the zero percent rate. Based on this, ZATCA reassessed the tax returns for the tax periods under dispute and subjected the revenues to the standard VAT rate. Regarding revenues prior to the Plaintiff's VAT registration date, the Plaintiff submitted its VAT registration application on 01/08/2018, with an effective date of 01/09/2018. As ZATCA identified invoiced revenues subject to VAT pertaining to tax periods prior to the effective date of the Plaintiff's VAT registration (from May to August 2018), ZATCA, in accordance with its powers, reassessed the tax returns and subjected the revenues to the standard VAT rate, pursuant to Article 14 of the Implementing Regulations of the Value Added Tax Law. The Defendant concluded its memorandum by requesting the dismissal of the case.



On Tuesday, 11/01/2022, the Department held its first session via video conference (remotely) to consider the case filed by the branch of the Emirati ... Company, Commercial Registration No. (...), against the Zakat, Tax and Customs Authority (ZATCA). Upon calling the parties, ... appeared, holding National ID No. (...), and stated that he possessed a PoA from the Plaintiff's branch, but it was not currently available to him. ... appeared, holding National ID No. (...), representing the Zakat, Tax and Customs Authority (ZATCA) under Authorization No. (...). The appearing party was informed of the necessity to present a legally valid PoA authorizing him to represent the Plaintiff in this case. The hearing of the case was adjourned to Tuesday, 10/05/2022. On Tuesday, 10/05/2022, the Department held its second session via video conference (remotely), based on Item (2) of Article Fifteen of the Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties, Mr. ... appeared on behalf of the Plaintiff company, holding National ID No. (...), and stated that PoA was issued from the United States of America and attested by the United Arab Emirates due to the company's branch being located there. He further stated that the process of attestation by the Kingdom's embassy in UAE is underway, in preparation for completing its ratification procedures within the Kingdom. Mr. ..., holding National ID No. (...), appeared representing the Zakat, Tax and Customs Authority (ZATCA) under Authorization No. (...). The representative of the company requested a continuance to complete the power of attorney procedures. Given the aforementioned and after discussion, the Department decided to adjourn the hearing of the case to Wednesday, 25/05/2022.

On Wednesday, 25/05/2022, the Department held its third session via video conference (remotely), based on Item (2) of Article Fifteen of the Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties, Mr. ... appeared as the attorney of the Plaintiff under PoA No. (...), and Mr. ... appeared, holding National ID No. (...), representing the Zakat, Tax and Customs Authority (ZATCA) under Authorization No. (.../.../...). After verifying the identity of the appearing parties by displaying their national identity cards through an enlarged window and confirming their respective capacities, the Department decided to proceed with the hearing of the case. The Plaintiff's attorney requested a continuance to draft the case and submit a detailed statement for each tax period, including the disputed tax amount, at the next session. Given the aforementioned and after discussion, the Department granted the Plaintiff's attorney's request and allowed him two (2) weeks to submit his statement, provided that a copy is provided to ZATCA's representative for a response if desired. The hearing of the case was adjourned to Thursday, 16/06/2022.

The Plaintiff submitted a memorandum and a detailed statement for each tax period, which can be summarized as follows: The branch opposes ZATCA's position on the application of Article 33 of the Implementing Regulations of the Value Added Tax Law based on the following: The sales made by the branch for the years 2019 and 2018, according to the audited financial statements of the branch, amounted to (SAR 31,891,685) and (SAR 39,664,717), respectively. Additionally, the branch also recorded revenues prior to its establishment as part of the 2018 financial statements amounting to (SAR 55,763,007). This resulted in total revenues for the branch in 2018 and 2019 amounting to (SAR 127,319,409). Unrealized revenues from the head office amounted to (SAR 42,915,919). The branch's revenues from claims to its head office amounted to (SAR 169,652,857). 2. The remaining amount of sales results from the following entities: a. ... Bahrain: (SAR 259,991). b. ... Saudi Arabia Co. Ltd.: (SAR 322,480). 3. Regarding the revenues realized from ... Bahrain, the services provided by the branch were assessed as exports and, according to Article 33 of the Implementing Regulations of the Value Added Tax Law, should be considered as such. The revenues realized from ... Bahrain include the following facts identified by the branch: - The services are provided to a client residing outside the Kingdom. - The branch has no evidence that ... Bahrain has any establishment within the Kingdom. - ... Co. is an affiliated entity of the branch, and the revenues realized are from the time spent by the branch's employees on



projects implemented by ... Bahrain in Bahrain; therefore, the benefit of the services is outside the Kingdom. - ... Bahrain has no intention of using these services within the Kingdom.

On Thursday, 16/06/2022, the Department held its fourth session via video conference (remotely), based on Item (2) of Article Fifteen of the Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties, Mr. ... appeared as the attorney of the Plaintiff under PoA No. (...), and Mr. ... appeared, holding National ID No. (...), representing the Zakat, Tax and Customs Authority (ZATCA) under Authorization No. (...). After verifying the identity of the appearing parties by displaying their national identity cards through an enlarged window and confirming their respective capacities, the Department decided to proceed with the hearing of the case. Upon questioning the Plaintiff's attorney regarding the reason for the previous adjournment, the Plaintiff's attorney requested the annulment of ZATCA's decision regarding the reassessment of the third quarter of 2018 and the imposition of a VAT of (SAR 1,591,021.88); the annulment of ZATCA's decision regarding the reassessment of the fourth quarter of 2018 and the imposition of a VAT of (SAR 1,061,586.21); the annulment of ZATCA's decision regarding the reassessment of January 2019 and the imposition of a VAT of (SAR 352,630.55); the annulment of ZATCA's decision regarding the reassessment of February 2019 and the imposition of a VAT of (SAR 353,331.25); the annulment of ZATCA's decision regarding the reassessment of March 2019 and the imposition of a VAT of (SAR 398,152.83); the annulment of ZATCA's decision regarding the reassessment of April 2019 and the imposition of a VAT of (SAR 359,698.34); the annulment of ZATCA's decision regarding the reassessment of May 2019 and the imposition of a VAT of (SAR 878,530.98); the annulment of ZATCA's decision regarding the reassessment of June 2019 and the imposition of a VAT of (SAR 16,504.27); the annulment of ZATCA's decision regarding the reassessment of July 2019 and the imposition of a VAT of (SAR 3,289.69); the annulment of ZATCA's decision regarding the reassessment of August 2019 and the imposition of a VAT of (SAR 181,802.67); and the annulment of ZATCA's decision regarding the reassessment of October 2019 and the imposition of a VAT of (SAR 1,485,877.53), based on the details provided in the statement of claim. Upon questioning ZATCA's representative about their response to the Plaintiff's case, they adhered to the validity of ZATCA's decision based on the details provided in the responsive memorandum submitted in reply to the Plaintiff's case. Upon questioning both parties as to whether they had anything further to add, the Plaintiff's attorney stated that they would rely on what had already been submitted. ZATCA's representative also stated that they would rely on what had already been submitted. Whereas the matter was mentioned, and after discussion, the Department decided to close the pleading and adjourn the session for deliberation and issuance of a decision.

Grounds

Having taken cognizance of the case papers and after due examination of its documents, having perused the Income Tax law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by the Minister of Finance's Decision No. (1535) of 11/06/1425 AH, as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, as amended, the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 11/06/1441 AH, and the Common VAT Agreement of GCC States, as well as other relevant laws and regulations, the Department has decided to consider the Case.

As in form, Whereas the Plaintiff aims through its case to annul the Defendant's decision regarding the final reassessment for the tax period related to the third and fourth quarters of 2018, and the months of January, February, March, April, May, June, July, August, and October of 2019; based on the Value Added Tax Law and its Implementing Regulations, and whereas this dispute is considered a tax dispute, it falls within the Tax Committee for Resolution of Tax Violations and Disputes, its term, and jurisdictions pursuant to Royal Order No. (26040) dated 21/04/1441 AH,



and whereas the case was submitted by a qualified party and within the legally prescribed period, the Department is obligated to accept the case in form.

On merits, after reviewing the entire case file and its contained submissions, it has become evident to the Department that the dispute lies in the Plaintiff's demand to annul the Defendant's decision concerning the final reassessment for the tax period related to the third quarter of 2018, imposing a Value Added Tax amounting to (SAR 1,591,021.88); the fourth quarter of 2018, imposing a VAT amounting to (SAR 1,061,586.21); the month of January 2019, imposing a VAT amounting to (SAR 352,630.55); the month of February 2019, imposing a VAT amounting to (SAR 353,331.25); the month of March 2019, imposing a VAT amounting to (SAR 398,152.83); the month of April 2019, imposing a VAT amounting to (SAR 359,698.34); the month of May 2019, imposing a VAT amounting to (SAR 878,530.98); the month of June 2019, imposing a VAT amounting to (SAR 16,504.27); the month of July 2019, imposing a VAT amounting to (SAR 3,289.69); the month of August 2019, imposing a VAT amounting to (SAR 181,802.67); and the month of October 2019, imposing a VAT amounting to (SAR 1,485,877.53), where the following has become apparent:

First: Item (Taxable Local Sales at Basic Rate): Regarding revenues outside the scope of tax, and whereas the Plaintiff objects on the Grounds that its revenues are not subject to tax, according to Article (18) of the Implementing Regulations of the Value Added Tax Law, and whereas the Plaintiff's revenues established in the approved financial statements for the years 2018 and 2019 pertain to the revenues of the contract concluded with the Ministry of Culture dated 15/07/2017, and whereas it is evident from the Plaintiff's commercial registration that its activity is "other information service activities not classified elsewhere under the implementation of the agreement concluded between it and the Ministry of Culture according to the agreement's appendix for supervising the project of implementing and developing media services, commencing on July 15, 2017, and ending on July 14, 2019; according to the condition," where it has been established for the Department that the supplier's place of residence is the Kingdom of Saudi Arabia, and whereas the Plaintiff is registered for Value Added Tax and provides services to a client in the Kingdom, and that the place of service provision is also located in the Kingdom, the service is considered subject to tax. Regarding the revenues of ... Bahrain Company, and whereas the Plaintiff objects on the Grounds that the revenues of ... Bahrain Company are subject to tax at a zero percent rate, and whereas the Plaintiff did not provide evidence substantiating its claim that the revenues resulted from services provided to a non-resident client according to the conditions stipulated in Article (33) of the Implementing Regulations of the Value Added Tax Law, and whereas Article (14) of the Implementing Regulations of the Value Added Tax Law states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom .", with which the Department concludes the correctness of the Defendant's procedure and dismisses the Plaintiff's claim in this item.

Second: Item of revenues of Saudi Arabia Co. Ltd. The Plaintiff indicates that the revenues of ... Bahrain Company are subject to tax at a zero percent rate on the basis that they are revenues resulting from services provided to a non-resident client, according to Article (33) of the Implementing Regulations of the Value Added Tax Law, and by referring to the attachments of the case, it is evident that the Plaintiff did not provide evidence substantiating its claim; thus, the Department deems the Defendant's procedure correct and dismisses the Plaintiff's claim in this item.

Third: Item of revenues prior to the VAT registration date: It is evident that the dispute lies in adding revenues prior to the effective date of the Plaintiff's registration from May to August 2018, and whereas the Plaintiff did not provide sufficient documentary evidence clarifying the non-



subjection of these amounts to Value Added Tax, with which the Department concludes the correctness of the Defendant's procedure and dismisses the Plaintiff's claim in this item.

In light of the above the Grounds and after deliberation, the Department unanimously decided the following:

Decision:

First: Accepting Plaintiff's case in form.

Second: On merits: Dismissing the case of the Plaintiff, ..., Commercial Registration No. (...), to annul the Zakat, Tax and Customs Authority's (ZATCA) decision regarding the reassessment of the third quarter of 2018 and the imposition of a Value Added Tax amounting to (SAR 1,591,021.88); and to annul the ZATCA's decision regarding the reassessment of the fourth quarter of 2018 and the imposition of a VAT amounting to (SAR 1,061,586.21); and to annul the ZATCA's decision regarding the reassessment of January 2019 and the imposition of a VAT amounting to (SAR 352,630.55); and to annul the ZATCA's decision regarding the reassessment of February 2019 and the imposition of a VAT amounting to (SAR 353,331.25); and to annul the ZATCA's decision regarding the reassessment of March 2019 and the imposition of a VAT amounting to (SAR 398,152.83); and to annul the ZATCA's decision regarding the reassessment of April 2019 and the imposition of a Vat amounting to (SAR 359,698.34); and to annul the ZATCA's decision regarding the reassessment of May 2019 and the imposition of a VAT amounting to (SAR 878,530.98); and to annul the ZATCA's decision regarding the reassessment of June 2019 and the imposition of a VAT amounting to (SAR 16,504.27); and to annul the ZATCA's decision regarding the reassessment of July 2019 and the imposition of a VAT amounting to (SAR 3,289.69); and to annul the ZATCA's decision regarding the reassessment of August 2019 and the imposition of a VAT amounting to (SAR 181,802.67); and to annul the ZATCA's decision regarding the reassessment of October 2019 and the imposition of a VAT amounting to (SAR 1,485,877.53).

Third: This Decision was delivered in the presence of Both Parties. Parties hereto may appeal against this Decision under Law within thirty (30) days from the date of depositing thereof in the e-system of the General Secretariat of Zakat, Tax and Customs Committees, whereafter the Decision is deemed final and enforceable. Date of depositing the Decision in the e-system of the General Secretariat of Zakat, Tax and Customs Committees is considered the date of its delivery.

May Allah's Blessings and Peace Be Upon Our Prophet Muhammad and Upon His Family and Companions.

(The Decision is deemed final and imperative by the lapse of the objection period under Article (33.2) of Zakat, Tax, and Customs Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate The Value Added Tax Violations and Disputes in Riyadh

Decision No. (VR-2022-987)
Delivered in Case No. (V-53053-2021)

Key words:

Value Added Tax (VAT) - Imposition of Late Registration Fine - Exceeding the Statutory Period.

Abstract

Plaintiff's petition for the annulment of ZATCA's decision imposing a late registration fine of SAR 10,000, and request for the cancellation of the imposed penalty - ZATCA responded by dismissing the case on procedural Grounds due to the expiration of the statutory period - the Department, upon reviewing the documents submitted by the Plaintiff proving their capacity as a representative of the owners on the platform, and in the absence of countervailing evidence from the Defendant, determines that the Plaintiff is not a taxpayer under the value added tax law (VAT Law), thus annulling the Defendant's decision - consequence: Annulment of ZATCA's decision imposing a late registration fine of SAR 10,000, and the decision is considered final and enforceable.

Instruments:

- Article (49) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 30/05/2022, the First Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh, established pursuant to the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH and its amendments, and formed by Royal Order No. (65474) dated 23/12/1439 AH, and reconstituted by Royal Order No. (19575) dated 09/04/1442 AH, convened to consider the aforementioned case. The case having met the prescribed regulatory requirements, it was lodged with the General Secretariat of Zakat, Tax and Customs Committees on 03/06/2021. The facts of this case are summarized as follows: Mr....., holder of National ID No. (...), acting on their own behalf, submitted a statement of claim contesting ZATCA's decision to impose a late registration penalty of SAR 10,000, requesting the cancellation of the imposed penalty.

Upon presenting the statement of claim to the Defendant, they submitted a one-page memorandum, wherein the Defendant maintained the validity of their decision and requested the dismissal of Plaintiff's case.

On Wednesday, 20/10/2021, the Department held its First session via video conference to consider the case filed by Mr....., holder of National ID No. (...), against ZATCA. Upon calling both litigants, Plaintiff attended personally, and Mr....., holder of National ID No. (...), attended in his capacity as a representative of ZATCA, by virtue of authorization No. (.....) issued by ZATCA. After verifying attendance of both litigants, displaying their national ID cards using a magnifying window, and verifying the capacity of both litigants, the Department decided



to proceed with case consideration. The Plaintiff requested the annulment of ZATCA's decision to impose a late registration fine of (SAR 10,000), noting that they did not register for Value Added Tax. Rather, ZATCA registered them, as they are an employee with no income other than their salary, based on the details in the statement of claim. When the Defendant's representative was asked about their response to the Plaintiff's claim, they raised a formal objection due to the expiration of the statutory period according to Article (49) of the VAT Law, as the Plaintiff was notified of the decision to dismiss the objection on 03/05/2021, while they did not file their lawsuit until 03/06/2021. When both parties were asked if they had anything to add, they raised a formal objection due to the expiration of the statutory period according to Article (49) of VAT Law, as the Plaintiff was notified of the decision to dismiss the objection on 03/05/2021, while they did not file their lawsuit until 03/06/2021. Given the aforementioned, and after discussion, the Department decided to task the Plaintiff with providing evidence that they filed their lawsuit with the Secretariat within the statutory period, despite the system issue that prevented them from filing the lawsuit, and to provide evidence that the revenue registered on the Platform does not belong to them, but rather to the companies they represent. The Department also tasked the Defendant's representative with providing evidence that the Plaintiff exceeded the mandatory registration threshold. Both parties requested a deadline to present their evidence in the next session. Accordingly, the Department granted their request and gave them time to present their evidence, provided that each party provides the other with a copy of their evidence for response if desired, and adjourned the hearing to Wednesday, 08/12/2021.

On Wednesday, 08/12/2021, the Department held its second session to consider the lawsuit filed by..., holder of National ID No. (...), against the Zakat, Tax, and Customs Authority (ZATCA). Upon calling the parties, the Plaintiff and his representative did not attend, despite confirmation of their notification of the session date via the email registered in the case file. Mr. ..., holder of National ID No. (...), the representative of ZATCA, attended with authorization No. (...), issued by ZATCA. As the Plaintiff and their representative did not attend this session, despite confirmation of their notification, the Department decided to dismiss the case. On 13/01/2022, the Plaintiff submitted an application to proceed with the case.

On Thursday, 12/05/2022, the Department held its First session after the dismissal, to consider the case filed by, holder of National ID No. (...), against Zakat, Tax, and Customs Authority (ZATCA). Upon calling both parties, the Plaintiff, ..., attended, and Mr., holder of National ID No. (...), the representative of ZATCA, attended with authorization No. (...), issued by ZATCA. After verifying the proper attendance of the parties by displaying their national ID cards through an enlarged window, and confirming their respective capacities, the Department decided to proceed with the lawsuit. Upon questioning the parties regarding the matters for which they were granted time in the previous session, the Plaintiff requested to be provided with a copy of the contracts upon which ZATCA relied to register them in VAT Law. A copy was provided to them, and they requested a deadline to submit a copy of the contracts upon which ZATCA relied for registration in VAT Law from ... Platform in the next session. Accordingly, after deliberation, the Department decided to respond to Plaintiff request, give them two weeks to submit the required documents, provided that ZATCA representative shall be provided with a copy thereof so that they may respond to its sole discretion, and adjourn case consideration until Monday, 30/05/2022.

On Monday, 30/05/2022, the Department held its second session after the dismissal, to consider the case filed by, holder of National ID No. (...), against the Zakat, Tax, and Customs Authority (ZATCA). Upon calling the parties, the Plaintiff, ..., attended, and Mr., holder of National ID No. (...), the representative of ZATCA, attended with authorization No. (...), issued by ZATCA. After verifying the proper attendance of the parties by displaying their national ID cards through an enlarged window, and confirming their respective capacities, the Department decided to proceed with the lawsuit. Upon questioning the Plaintiff regarding the matters for which they were granted time in the previous session, they stated that copies of the lease contracts had



been submitted from the ... platform clarifying their capacity as the legal representative of the lessor by virtue of a legal PoA. They stated that they had nothing further to add. ZATCA's representative also stated that they would rely on what had already been submitted. Whereas the matter was mentioned, and after discussion, the Department decided to close the pleading and adjourn the session for deliberation and issuance of a decision.

Grounds



Having taken cognizance of the case papers and after due examination of its documents, having perused the Income Tax law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by the Minister of Finance's Decision No. (1535) of 11/06/1425 AH, as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, as amended, the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 11/06/1441 AH, and the Common VAT Agreement of GCC States, as well as other relevant laws and regulations, the Department has decided to consider the Case.

Regarding the form, as the Plaintiff aims in his case to annul ZATCA's decision regarding the imposition of a late registration fine, based on VAT Law and its implementing regulations, and as the Defendant argues for the inadmissibility of the case in form due to the expiration of the statutory period according to Article (49) of VAT Law, where the Plaintiff was notified of the decision to dismiss the objection on 03/05/2021, while they did not file their case until 03/06/2021, whereas the Plaintiff argues that they are not subject to VAT Law because the value of revenues registered in their name on ... platform does not belong to them, and that they are merely a representative of the original property owners. Upon the Department's review of the documents submitted by the Plaintiff proving their representation of the owners on ... platform, and as the Defendant did not provide documents to prove otherwise, the Department finds that the Plaintiff is not a taxpayer under VAT Law, and therefore annuls the Defendant's decision.

Based on the foregoing, the Department unanimously decided:

Decision:

First: Annulment of ZATCA's decision regarding the imposition of a late registration fine amounting to (10,000) Riyals.

Second: The decision was made in presence of both parties, and the Department has allocated thirty (30) days for receipt of decision copy. The Department may extend this period by an additional thirty days if necessary. According to Article (42) of the Tax Dispute and Violation Committee Procedures, this decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate The Value Added Tax Violations and Disputes in Riyadh

Decision No. (VR-2022-1021)
Delivered in Case No. (V-84615-2021)

Key words:

Value Added Tax (VAT) - Misdeclaration Penalty - Late Payment Penalty - Outstanding Tax Differences Not Declared by Plaintiff - Statutory Period - Case Dismissal.

Abstract

The Plaintiff demanded the cancellation of ZATCA's decision to impose a misdeclaration penalty for the third quarter of 2018, amounting to (442,759.33) Riyals, and a late payment penalty of (1,505,381.74) Riyals. ZATCA responded that it had conducted a reassessment in accordance with the provisions of VAT Law - The Department has established the following, First: Misdeclaration Penalty Item, and where it was established that there was a difference between what the Plaintiff submitted in their tax return and what resulted from the review process, which led to outstanding tax differences that the Plaintiff did not declare in their tax period, and since the Plaintiff did not provide evidence to support their claim, the Department concludes that the Defendant's action in imposing the penalty was valid. Second: Late Payment Penalty Item, where it resulted from the Defendant's amendment of the Plaintiff's tax return, and where it was not paid within its statutory deadline, and where the Plaintiff's claim to cancel the penalty based on their ignorance of the regulations and bylaws is not considered a valid legal justification for exempting them from the late payment fine; and since the Plaintiff did not provide evidence to support their claim, the Department concludes that the Defendant's action in imposing the penalty was valid – Resulting in: Dismiss Plaintiff's case - the decision shall be final and enforceable.

Instruments:

- Article (26/1), Article (42/1), and Article (43) of [Value Added Tax Law issued pursuant to Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (64.1) and (59.1) of [The Implementing Regulations of The Law of Value Added Tax, issued by ZATCA "Previously GAZT" Board of Directors Decision No. \(3839\) of 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Thursday, 16/06/2022, First Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and Royal Order No. (17218) dated 27/03/1442 AH, met for the purpose of considering the abovementioned case. Since the case fulfilled the established regulatory requirements, it was filed with General Secretariat of Zakat, Tax and Customs Committees on 01/12/2021.



The facts of this case are summarized as follows: Mr..., holder of National ID No. (...), submitted a statement of claim including their objection to the decision of the Zakat, Tax and Customs Authority (ZATCA) regarding the imposition of a misdeclaration penalty for the third quarter of 2018 in the amount of (SAR 442,759.33), and a penalty for late payment in the amount of (SAR 1,505,381.74), requesting the annulment of the Defendant's decision.

Having presented the statement of claim to Defendant, it submitted a Reply that included the following: ZATCA conducted a reassessment in accordance with the provisions of Article 26(1) of the Value Added Tax Law and Article 64(1) of the Implementing Regulations of the Value Added Tax Law. Due to the outcome of the examination and assessment process, a misdeclaration penalty was imposed, as well as a penalty for late payment for the months following the tax period under objection. Accordingly, ZATCA submits its request to the Committee for a ruling in favor of the dismissal of the claim.

Plaintiff then submitted a Replication that included the following: Regarding the misdeclaration and late payment penalties, we request that ZATCA apply Article 42(2) of the Value Added Tax Law, as we were unaware that a personal tax return was required for the sale of personal land by individuals, and we lacked the knowledge and understanding of VAT applications. Plaintiff concluded by requesting abolishment of Defendant's decision for the stated Grounds.

On Thursday, 02/06/2022, the Department held its first session via video conference (remotely) to consider the case filed by, National ID No. (...), against the Zakat, Tax and Customs Authority (ZATCA). Upon calling the parties to the case, ..., National ID No. (...), appeared as the Plaintiff's representative by virtue of PoA No. (...), and, National ID No. (...), representing the Zakat, Tax and Customs Authority (ZATCA) by virtue of the authorization issued by ZATCA under No. (...), appeared. After verifying the identity of the parties present by displaying their respective National ID cards via an enlarged window and confirming the capacity of each party, the Department decided to proceed with the hearing of the case. The Plaintiff's representative requested the annulment of ZATCA's decision to impose a misdeclaration penalty for the third quarter of 2018 in the amount of (SAR 442,759.33) and a late payment penalty in the amount of (SAR 1,505,381.74), based on the details outlined in the statement of claim. Upon questioning the Defendant's representative regarding their response to the Plaintiff's claim, they maintained the validity of ZATCA's decision based on the details outlined in the written reply memorandum submitted in response to the Plaintiff's claim. Upon questioning both parties regarding any further submissions, the Plaintiff's representative stated that his client was unaware of the Law and lacked sufficient knowledge to submit the tax returns at the initial implementation of the Value Added Tax Law. He reiterated the request for ZATCA to apply Article 42(2) of the Value Added Tax Law, and concluded his submissions. ZATCA's representative also stated that they would rely on what had already been submitted. Therefore, after discussion, the Department decided to close pleadings for deliberation and set the date of Thursday, 16/06/2022 AD, as the date for delivering its decision.

On Thursday, 16/06/2022, the Department held its second session via video conference (remotely) to consider the case filed by, National ID No. (...), against the Zakat, Tax and Customs Authority (ZATCA). Upon calling the parties to the case, ..., National ID No. (...), appeared as the Plaintiff's representative by virtue of PoA No. (...), and, National ID No. (...), representing the Zakat, Tax and Customs Authority by virtue of the authorization issued by ZATCA under No. (...), appeared. After verifying the identity of the parties present by displaying their respective National ID cards via an enlarged window and confirming the capacity of each party, and considering that the Department had decided in the previous session to close the pleadings and reserve the case for further study, with this day being set for the pronouncement of the judgment.

Grounds





Having taken cognizance of the case papers and after due examination of its documents, having perused the Income Tax law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by the Minister of Finance's Decision No. (1535) of 11/06/1425 AH, as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, as amended, the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 11/06/1441 AH, and the Common VAT Agreement of GCC States, as well as other relevant laws and regulations, the Department has decided to consider the Case.

As in form, considering that the Plaintiff seeks the annulment of the Defendant's decision concerning the final reassessment for the tax period related to the third quarter of 2018, based on the Value Added Tax Law and its Implementing Regulations, and given that this dispute constitutes a tax dispute, it falls within the jurisdiction of the Tax Committee for Resolution of Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH. Furthermore, as the case was filed by a party with standing and within the statutorily prescribed period, the Department finds it appropriate to accept the case in form.

On merits, upon the Department's review of the case file and the responses of both parties after granting them sufficient time to present their statements and submissions, it is established that the Defendant issued its decision to impose a misdeclaration penalty for the third quarter of 2018 in the amount of (SAR 442,759.33) and a late payment penalty in the amount of (SAR 1,505,381.74), as the following has become apparent:

First: Regarding the misdeclaration penalty item, it has been established that there is a discrepancy between what the Plaintiff submitted in their tax return and the outcome of the review process, resulting in outstanding tax differences for which the Plaintiff did not declare in their tax period. This constitutes a violation of the statutory provisions. The Plaintiff's claim for the annulment of the penalty based on their alleged ignorance of the laws and regulations is not considered a valid legal justification for exempting them from the misdeclaration penalty. All regulatory requirements were published with sufficient time prior to the implementation of the tax regulations, and all awareness measures were taken through various means; therefore, ignorance of the Law is not an excuse. Furthermore, the Plaintiff has failed to provide any evidence to substantiate their claim. Article 42(1) of the Value Added Tax Law stipulates that: "Any person who files an incorrect tax return to the Authority, amends a tax return after being filed, or files any document with the Authority in relation to the tax due by him which results in an error in the calculation of the tax amount resulting in an amount that is less than the tax due shall be subject to a fine equal to 50% of the difference between the calculated tax and the tax due." Article 62(1) of the Implementing Regulations of the Value Added Tax Law further states that: "The taxable person or their representative must submit their tax return to the Authority no later than the last day of the month following the end of the tax period to which the return relates."

Therefore, the Department concludes that the Defendant's action in imposing the penalty is correct.

Second: Regarding the late payment penalty item, as it resulted from the Defendant's amendment to the Plaintiff's tax return and was not paid within the statutory deadline. The Plaintiff's claim for the annulment of the penalty based on their alleged ignorance of the laws and regulations is not considered a valid legal justification for exempting them from the late payment penalty. All regulatory requirements were published with sufficient time prior to the implementation of the tax regulations, and all awareness measures were taken through various means; therefore, ignorance of the Law is not an excuse. Furthermore, the Plaintiff has failed to provide any evidence to substantiate their claim. Article 59(1) of the Implementing Regulations of the Value Added Tax Law stipulates that: "Payment of Tax due by a Taxable Person in respect of a Tax Period must be made at the latest by the last day of the month following the end of that Tax Period." Moreover, Article (43) of the VAT Law provides: "Any person who fails to pay the tax due within the period



specified by the Regulations shall be subject to a fine equal to 5% of the amount of the unpaid tax for each month or part thereof for which the tax is not paid.” Therefore, the Department concludes that the Defendant's action in imposing the penalty is correct.

Based on the above, and after deliberation, the Department unanimously decided as follows:

Decision:

First: Accepting Plaintiff's case in form.

Second: On merits: The Plaintiff's claim, ..., National ID No. (.....), seeking the annulment of ZATCA's decision to impose a misdeclaration penalty for the third quarter of 2018 in the amount of (SAR 442,759.33) and a late payment penalty in the amount of (SAR 1,505,381.74), is hereby dismissed.

This ruling is rendered in absentia with respect to both parties. Either party to the case may file an appeal against this ruling within thirty (30) days from the day following the date designated for the receipt of the ruling. The decision is considered final and enforceable after the expiry of this period, and the date of the decision's availability on GSTC e-portal is considered the date of the decision's delivery.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate The Value Added Tax Violations and Disputes in Riyadh

Decision No. (VR-2022-1051)
Delivered in Case No. (V-36250-2021)

Key words:

Value Added Tax - Sales - Tax Reassessment - Unrealized Revenue - Financial Statements - International Accounting Standards - Revenue vs. Estimated Insurance Premiums - Purchases - Statutory Period.

Abstract

The Plaintiff claims for the annulment of the Zakat, Tax and Customs Authority's (ZATCA) decision regarding the reassessment for December 2018, and the calculation of Value Added Tax on the sales item amounting to (SAR 20,185,313), and the imposition of Value Added Tax on the purchases item amounting to (SAR 3,513,522.24) - ZATCA responded as follows: The revenue added by ZATCA is unrealized; rather, it was included in the financial statements in compliance with the requirements of the International Accounting Standards related to insurance, and by its nature, it is considered estimated revenue. Furthermore, the purchases relate to reinsurance amounts outside the Kingdom and are subject to the zero rate according to the reverse charge mechanism - The Department established that the revenue included by ZATCA within the reassessment for the disputed period is revenue against estimated insurance premiums, the inclusion of which is mandated by accounting standards within the Plaintiff's revenue. However, it has not acquired the characteristic of realization that triggers the imposition of Value Added Tax, and this estimated revenue will be realized in subsequent periods, at which point it must be included within the Plaintiff's returns upon acquiring the characteristic of realization. Accordingly, the Department finds ZATCA's action regarding the sales item to be incorrect. As for the purchases item, it became clear to the Department that these amounts relate to reinsurance contracts paid to suppliers outside the Kingdom. It also became clear to the Department that the Plaintiff included the realized premiums paid to foreign suppliers within their purchases subject to the zero rate, after excluding the unrealized portion. Consequently, the Department finds merit in accepting the Plaintiff's claim regarding this item - Resulting in: Annulment of ZATCA's decision regarding the reassessment for December 2018 and the calculation of Value Added Tax on the sales item amounting to (SAR 20,185,313), and the imposition of Value Added Tax on the purchases item amounting to (SAR 3,513,522.24) - Considering the decision final and enforceable.

Instruments:

- Article (15) of [the Rules of Procedure for the Tax Dispute and Violation Committee Procedures issued by Royal Order No.: \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.



On Thursday, 09/06/2022, the First Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh, established pursuant to the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH and its amendments, and formed by Royal Order No. 65474 dated 23/12/1439 AH, and reconstituted by Royal Order No. (19575) dated 09/04/1442 AH, convened to consider the aforementioned case. The case having met the prescribed regulatory requirements, it was lodged with the General Secretariat of Zakat, Tax and Customs Committees on 04/02/2021. The facts of this case are summarized as follows: The Company, Commercial Registration No. (.....), submitted, through, National ID No. (.....), in his capacity as the representative of the Chairman of the Board of Directors of the Company, by virtue of PoA No. (.....), a statement of claim containing its objection to the Defendant's decision regarding the reassessment for December 2018, the calculation of Value Added Tax on the sales item amounting to (SAR 20,185,313), and the imposition of Value Added Tax on the purchases item amounting to (SAR 3,513,522.24), requesting the annulment of the Defendant's decision. Upon presenting the statement of claim to the Defendant, it submitted a two-page written response, wherein the Defendant maintained the validity of its decision and requested the dismissal of the case.

The Plaintiff also submitted a seven-page written response.

On Monday, 13/09/2021, the Department held its first session to consider the case filed by Company, Commercial Registration No. (.....), against the Zakat, Tax and Customs Authority (ZATCA). Upon calling the parties to the case, the Plaintiff's representative, ..., National ID No. (.....), appeared by virtue of PoA No. (.....), and, National ID No. (.....), representing the Zakat, Tax and Customs Authority by virtue of the authorization issued by ZATCA under No. (.....), appeared. After verifying the identity of the parties present by displaying their respective National ID cards via an enlarged window and confirming the capacity of each party, the Department decided to proceed with the hearing of the case. The Plaintiff's representative stated that his client had submitted a settlement request to ZATCA and requested a two-month extension pending a decision on the settlement request. Given the aforementioned, and after deliberation, the Department decided to grant the Plaintiff's representative's request and grant a two-month extension, adjourning the hearing of the case to the session on Thursday, 18/11/2021.

On Thursday, 18/11/2021, the Department held its second session to consider the case filed by the Company, Commercial Registration No. (.....), against the Zakat, Tax and Customs Authority (ZATCA). Upon calling the parties to the case, the Plaintiff's representative, ..., National ID No. (.....), appeared by virtue of PoA No. (.....), and, National ID No. (.....), representing the Zakat, Tax and Customs Authority by virtue of the authorization issued by ZATCA under No. (.....), appeared. After verifying the identity of the parties present by displaying their respective National ID cards via an enlarged window and confirming the capacity of each party, the Department decided to proceed with the hearing of the case. The Plaintiff's attorney requested the annulment of ZATCA's decision regarding the reassessment for December 2018, the calculation of Value Added Tax on the sales item amounting to (SAR 20,185,313) on the Grounds that this activity is a reinsurance activity, and the imposition of Value Added Tax on the purchases item amounting to (SAR 3,513,522.24) according to the reverse charge mechanism, as they are foreign purchases. Based on the details outlined in the statement of claim, and upon questioning the Defendant's representative regarding their response to the Plaintiff's claim, they maintained the validity of ZATCA's decision based on the details outlined in the written reply memorandum submitted in response to the Plaintiff's claim. When both parties were asked if they had anything further to add, each party stated that they would rely on what had already been presented. Given the aforementioned, and after discussion, the Department resolved to instruct the Plaintiff's attorney to provide the Department with samples of the insurance contracts relevant to the dispute and the financial statements. The Plaintiff's attorney requested an extension to submit the required documents at the next session. Accordingly, the Department decided to grant



the Plaintiff's attorney's request and grant a two-week extension to submit his submissions, provided that a copy thereof is provided to the Defendant's representative for a response if they so wish, and adjourned the hearing of the case to the session on Wednesday, 19/01/2022.

On Wednesday, 19/01/2022, the Department held its third session to consider the case filed by the Company, Commercial Registration No. (.....), against the Zakat, Tax and Customs Authority (ZATCA). Upon calling the parties to the case, the Plaintiff's attorney, ..., National ID No. (.....), appeared by virtue of PoA No. (.....), and, National ID No. (.....), representing the Zakat, Tax and Customs Authority by virtue of the authorization issued by ZATCA under No. (.....), appeared. After verifying the identity of the parties present by displaying their respective National ID cards via an enlarged window and confirming the capacity of each party, the Department decided to proceed with the hearing of the case. Upon questioning the Plaintiff's attorney regarding the matter for which he was granted an extension in the previous session, the Plaintiff's attorney stated that he had not noted the Department's request to provide the financial statements and requested an extension to submit the financial statements and the classification of contracts and their amounts for presentation at the next session. After discussion, the Department decided to grant the Plaintiff's attorney's request and grant a one-week extension to submit his submissions, provided that a copy thereof is provided to the Defendant's representative for a response if they so wish, and adjourned the hearing of the case to the session on Monday, 21/03/2022.

On Monday, 21/03/2022, the Department held its fourth session, based on Item (2) of Article Fifteen of the Tax Dispute and Violation Committee Procedures issued by Royal Order No.: (26040) dated 21/04/1441 AH. Upon calling the parties to the case, the Plaintiff's attorney, ..., National ID No. (.....), appeared by virtue of PoA No. (.....), and, National ID No. (.....), representing the Zakat, Tax and Customs Authority by virtue of the authorization issued by ZATCA under No. (.....), appeared. After verifying the identity of the parties present by displaying their respective National ID cards via an enlarged window and confirming the capacity of each party, the Department decided to proceed with the hearing of the case. Upon questioning the Plaintiff's attorney regarding the matter for which he was granted an extension in the previous session, the Plaintiff's attorney stated that sample copies of the foreign contracts, as well as the company's financial statements for the years 2018 and 2019, and the classification of contracts based on the Department's request, had been submitted and uploaded to the case file, and he concluded his submissions. Upon questioning the Defendant's representative regarding the Plaintiff's attorney's statements and submissions, they requested an extension to review them and submit a written response at the next session. Given the aforementioned, and after discussion, the Department decided to grant the Defendant's representative's request and grant a two-week extension to submit their submissions, provided that a copy thereof is provided to the Plaintiff's attorney for a response if they so wish, and adjourned the hearing of the case to the session on Tuesday, 24/05/2022.

The Defendant submitted a three-page written response memorandum.

The Plaintiff also submitted a thirteen-page written response memorandum.

On Tuesday, 24/05/2022, the Department held its fifth session, based on Item (2) of Article Fifteen of the Tax Dispute and Violation Committee Procedures issued by Royal Order No.: (26040) dated 21/04/1441 AH. Upon calling the parties to the case, the Plaintiff's attorney, ..., National ID No. (.....), appeared by virtue of PoA No. (.....), and, National ID No. (.....), representing the Zakat, Tax and Customs Authority by virtue of the authorization issued by ZATCA under No. (.....), appeared. After verifying the identity of the parties present by displaying their respective National ID cards via an enlarged window and confirming the capacity of each party, the Department decided to proceed with the hearing of the case. Upon questioning the Defendant's representative regarding the matter for which they were granted an extension in the previous session, they stated that a written response memorandum had been submitted in reply to the written response memorandum submitted by the Plaintiff Company in the previous session.



Upon questioning the Plaintiff's attorney regarding their response to the memorandum submitted by the Defendant's representative, the Plaintiff's attorney stated that they would rely on their previous submissions in the earlier sessions and affirmed the requests contained therein. The Defendant's representative maintained the validity of ZATCA's decision based on the reasons stated in the written response memoranda submitted in this case. Given the aforementioned, and after discussion, the Department decided to close the pleadings and reserve the case for further study and deliberation, setting Thursday, 09/06/2022, as the date for the pronouncement of the judgment.

On Thursday, 09/06/2022, the Department held its sixth session, based on Item (2) of Article Fifteen of the Tax Dispute and Violation Committee Procedures issued by Royal Order No.: (26040) dated 21/04/1441 AH. Upon calling the parties to the case, the Plaintiff's attorney, ..., National ID No. (.....), appeared by virtue of PoA No. (.....), and, National ID No. (.....), representing the Zakat, Tax and Customs Authority by virtue of the authorization issued by ZATCA under No. (.....), appeared. After verifying the identity of the parties present by displaying their respective National ID cards via an enlarged window and confirming the capacity of each party, and considering that the Department had decided in the previous session to close the pleadings and reserve the case for further study, with this day being set for the pronouncement of the judgment.

Grounds

Having reviewed Income Tax Law issued by Royal Decree No. (M/1) dated 15/10/1425 AH and its amendments, its Implementing Regulations issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH and their amendments, and having reviewed Zakat, Tax, and Customs Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH, and other relevant laws and regulations.

As for form, considering that the Plaintiff seeks the annulment of the Defendant's decision concerning the reassessment for December 2018, based on the Value Added Tax Law and its Implementing Regulations, and given that this dispute constitutes a tax dispute, it falls within the jurisdiction of the Tax Committee for Resolution of Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH. Furthermore, as the case was filed by a party with standing and within the statutorily prescribed period, the Department finds it appropriate to accept the case in form.

On merits, having examined the complete case file and its contents, including the defenses presented, the Department finds that the dispute lies in ZATCA's reassessment for December 2018 of the Plaintiff, calculating Value Added Tax on the sales item amounting to (SAR 20,185,313) as undeclared revenue, and imposing Value Added Tax on the purchases item amounting to (SAR 3,513,522.24) due to the non-application of the zero rate, for which the Plaintiff did not provide ZATCA with justification for its position. Conversely, the Plaintiff argues that the revenue added by ZATCA is unrealized and was included in the financial statements in compliance with the requirements of the International Accounting Standards related to insurance, and by its nature, it is considered estimated revenue. Furthermore, the purchases relate to reinsurance amounts outside the Kingdom and are subject to the zero rate according to the reverse charge mechanism. Upon the Department's review of the International Financial Reporting Standards adopted in the Kingdom of Saudi Arabia, and the Plaintiff's financial statements, it became clear to the Department that the revenue included by ZATCA within the reassessment for the disputed period is revenue against estimated insurance premiums, the inclusion of which is mandated by accounting standards within the Plaintiff's revenue. However, it has not acquired the characteristic of realization that triggers the imposition of Value Added Tax, and this estimated revenue will be realized in subsequent periods, at which point it must be included within the Plaintiff's returns upon acquiring the characteristic of realization. Accordingly, the Department finds ZATCA's action regarding the sales item to be incorrect. As for the purchases item, upon



the Department's review of the sample contracts submitted by the Plaintiff and the Plaintiff's approved financial statements, it became clear to the Department that these amounts relate to reinsurance contracts paid to suppliers outside the Kingdom. It also became clear to the Department that the Plaintiff included the realized premiums paid to foreign suppliers within their purchases subject to the zero rate, after excluding the unrealized portion. Consequently, the Department finds merit in accepting the Plaintiff's claim regarding this item. Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Rules of Procedure for Tax Dispute and Violation Committees, the Department unanimously decided after deliberation:

Decision:

First: Accepting Plaintiff's case in form.

Second: On merits: ZATCA's decision regarding the reassessment for December 2018 and the calculation of Value Added Tax on the sales item amounting to (SAR 20,185,313), and the imposition of Value Added Tax on the purchases item amounting to (SAR 3,513,522.24), is hereby annulled.

This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days as it deems appropriate. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. In addition, the decision shall become final and enforceable after lapse of such period.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

Appeal Committee:

Appeal Committee ruled to uphold Department decision.



Value-Added Tax

Determination Committee

First Department to Adjudicate The Value Added Tax Violations and Disputes in Riyadh

Decision No. (VR-2022-1012)
Delivered in Case No. (V-55903-2021)

Key words:

Value Added Tax - Tax Reassessment - VAT - Misdeclaration Penalty - Late Payment Penalty - Calculation of the Final Assessment - Statutory Period - Annulment of ZATCA Decision.

Abstract

The Plaintiff seeks the annulment of the Zakat, Tax and Customs Authority's (ZATCA) decision regarding the reassessment for the month of February 2018, imposing a VAT of (SAR 1,728,813), a misdeclaration penalty of (SAR 71,864,406), and a late payment penalty of (SAR 18,414,912.5); given that the Defendant did not clarify the basis for calculating the assessment. ZATCA responded by stating that there were sales discrepancies between the revenues in the financial statements and the tax declarations amounting to (SAR 506,444,378) for the year 2018 and (SAR 74,133,343,583) for the year 2019. The Department finds that the Defendant did not provide a clear basis for calculating the assessment, and that the total revenue amount in the tax declarations for the year 2018 is the declared amount in the tax periods from January to September 2018 and December 2018, and does not include the periods of October and November 2018. Therefore, the calculated difference is considered incorrect and does not explain the taxable amount. Furthermore, the Defendant did not provide details of the remaining amount of revenue differences between the financial statements and the tax declarations, nor its source. Consequently, due to the lack of clarity in the reasons upon which the Defendant based its decision to calculate the final assessment for the tax period of February 2018, the Department concludes that the Defendant's decision violates paragraph (2) of Article (64) of VAT Implementing Regulations. Regarding the misdeclaration penalty and the late payment penalty, and considering that our opinion in the first item above has led to the annulment of the Defendant's decision, and given that the misdeclaration penalty and the late payment penalty resulted from that, then what is related to it follows its ruling. - the implication of this is: ZATCA's decision regarding the reassessment for the month of February 2018, the imposition of the Value Added Tax, the misdeclaration penalty, and the late payment penalty are hereby annulled. The decision is considered final and enforceable.

Instruments:

- Article (42/1) of [the Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Article (9/5) and Article (64/2) of [the Implementing Regulations of the Value Added Tax Law issued by the Board of Directors of the General Authority of Zakat and Tax \(GAZT\) Resolution No. \(3839\) dated 14/12/1438 AH.](#)
- Article (3/6) of [the Statute of the Saudi Organization for ..., issued on 01/01/1422 AH, corresponding to 26/03/2001 AD, by Council of Ministers Resolution No. 235 dated 27/8/1422 AH.](#)



Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday, corresponding to 01/06/2022, the first department to adjudicate the value added tax violations and disputes in Riyadh convened. This Department was established pursuant to the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH and its amendments, formed by Royal Order No. 65474 dated 23/12/1439 AH, and reconstituted by Royal Order No. (19575) dated 09/04/1442 AH. The purpose of the meeting was to consider the aforementioned lawsuit. Having met the prescribed regulatory requirements, the case was filed with the General Secretariat of Zakat, Tax and Customs Committees on 22/06/2021.

The facts of this case are summarized as follows: Mr. ..., holder of National ID No. (...), in their capacity as the duly authorized representative of ZATCA, with TIN No. (...), submitted a statement of claim. This claim contested ZATCA's decision regarding the reassessment for the month of February 2018, which imposed a value-added tax (VAT) of (1,728,813) Riyals, a misdeclaration penalty amounting to (71,864,406) Riyals, and a late payment penalty of (18,4149.125) Riyals.

Upon presentation of the statement of claim to the Defendant, the Defendant submitted a three-page memorandum of defense. This memorandum asserted the validity of the Defendant's decision and requested a judgment dismissing the case.

On Tuesday, 17/03/2022, the Department convened its first session, based on Item (2) of Article Fifteen of the Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the case, the Plaintiff's representative, Mr. ..., holder of National ID No. (...), by virtue of PoA No. (...), appeared. Also present were the Plaintiff's tax advisors, Mr. ..., holder of National ID No. (...), and Mr. ..., holder of National ID No. (...), as well as Mr. ..., holder of National ID No. (...), representing the Zakat, Tax and Customs Authority (ZATCA) by virtue of PoA issued by ZATCA under No. (...). After verifying the identity of the appearing parties by viewing their respective national ID cards and confirming their capacities, the Department decided to proceed with the hearing of the case. The Plaintiff's representative requested an extension to submit a detailed statement including the tax period, the disputed tax amount, the types of disputed penalties, and their respective amounts. Given the aforementioned, and after discussion, the Department decided to grant the Plaintiff's representative's request and grant them a one-week extension to submit their statement, provided that a copy thereof is provided to ZATCA's representative for their response if they so wish. The hearing of the case was adjourned to the session scheduled for Wednesday, 11/05/2022.

On Wednesday, 11/05/2022, the Department convened its second session, based on Item (2) of Article Fifteen of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the case, the Plaintiff's representative, Mr. ..., holder of National ID No. (...), by virtue of PoA No. (...), appeared. Also present was the Plaintiff's tax advisor, Mr. ..., holder of National ID No. (...), and Mr. ..., holder of National ID No. (...). After verifying the identity of the appearing parties by viewing their respective national ID cards and confirming their capacities, the Department decided to proceed with the hearing of the case. In the statement of claim, the Plaintiff's representative requested the annulment of ZATCA's decision regarding the reassessment for the month of February 2018, which imposed a value-added tax (VAT) of (1,728,813) Riyals, a misdeclaration penalty amounting to (71,864,406) Riyals, and a late payment penalty of (18,4149.125) Riyals. Based on the details provided in the statement of claim, and upon questioning the Defendant's representative regarding their response to the Plaintiff's claim, they maintained the validity of ZATCA's decision based on the details provided in the submitted memorandum of defense in response to the Plaintiff's claim, and the attached documents. Upon questioning both parties regarding any further submissions, each party stated that they would rely on their previous submissions. Given the aforementioned, and after



deliberation, the Department decided to close the pleadings and reserve the case for consideration, scheduling Wednesday, 01/06/2022, as the date for pronouncement of the decision.

On Wednesday, 01/06/2022, the Department convened its third session, based on Item (2) of Article Fifteen of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the case, the Plaintiff's representative, Mr. ..., holder of National ID No. (...), by virtue of PoA No. (...), appeared. Also present was the Plaintiff's tax advisor, Mr. ..., holder of National ID No. (...), and Mr. ..., holder of National ID No. (1089700429), representing the Zakat, Tax and Customs Authority (ZATCA) by virtue of PoA issued by ZATCA under No. (...). After verifying the identity of the appearing parties by viewing their respective national ID cards and confirming their capacities, and as the Department had decided in the previous session to close the pleadings and reserve the case for further review, this day was set for the pronouncement of the decision.

Grounds

Having reviewed Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH and its amendments, its Implementing Regulations issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH and their amendments, and having reviewed Zakat, Tax, and Customs Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH, and other relevant laws and regulations.

As to Form: Given that the Plaintiff seeks the annulment of the Defendant's decision regarding the reassessment for the month of February 2018 and the imposition of value-added tax, based on the Value Added Tax Law and its Implementing Regulations, and considering that this dispute is a tax dispute, it falls within the jurisdiction of the Tax Committee for Resolution of Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH. Furthermore, as the case was filed by a party with standing and within the statutory timeframe, the Department hereby accepts the case in form.

On merits: After reviewing the entire case file and its contents, it is evident to the Department that the dispute lies in the final assessment notice for the tax period of February 2018, resulting from the addition of (14,34,576,268) Riyals to the basic rate taxable sales item and a tax of (41,1,728,813) Riyals, due to a sales difference that was not disclosed in the declaration. The Plaintiff argued that the Defendant did not clarify the basis for calculating the assessment, as it examined the tax declarations for the period from January to September 2018 and the two periods of December 2018 and 2019, representing (11) tax periods with a tax due of (116,205,095) Riyals, without explaining how the amount was reached and calculated. The financial statements for 2018 and 2019 showed revenues of (652,575,876) Riyals and (646,771,359) Riyals, respectively, while the Defendant added sales amounting to (2,324,101,890) Riyals. The Defendant argued the existence of sales differences between the revenues in the financial statements and the tax declarations amounting to (506,444,378) Riyals for 2018 and (74,133,343,583) Riyals for 2019. However, it is evident to the Department that the Defendant did not provide a clear basis for calculating the assessment, for several reasons:

First: The final assessment notice regarding the calculated differences is unclear.

Second: The total revenue in the tax declarations for 2018 (172,657,378.82) Riyals is the amount declared for the tax periods from January to September 2018 and December 2018, and does not include the October and November 2018 periods. Therefore, the calculated difference is considered incorrect and does not explain the taxable amount.

Third: The total revenue in the financial statements for 2018 includes: (a) License issuance fees, which are not subject to tax as they pertain to a public authority, as per Paragraph (6) of Article (3) of the Statute of the Saudi Organization for Industrial Estates and Technology Zones. (b) Rental revenues in Note (18), which include residential areas. (c) Other revenues in Note (21), which include non-taxable fines.



Fourth: Details of the remaining amount of revenue differences between the financial statements and tax declarations and their source were not provided.

Fifth: The Defendant mentioned a discrepancy between sales statements and the Plaintiff's declarations, proving the non-submission of a correct document, without specifying the disputed difference amount.

Sixth: Documents were requested, and only one (1) day was allowed for their submission, as indicated in the correspondence submitted by the Defendant. Seventh: The difference amount pertains to the entire year of 2018 and does not specify each period separately. Based on the foregoing, it is evident that the Plaintiff is organized as a public authority with an independent legal personality, headed by the Minister of Industry as it falls under the Ministry of Industry pursuant to the Council of Ministers Resolution No. (235) dated 27/08/1422 AH, which entrusted the Plaintiff with specific tasks, and that it engages in non-economic activities according to Paragraph (5) of Article (9) of the Regulations. Regarding the Defendant's explanation of the basis for calculating the value difference in matching declaration revenues with the income statement, it did not clarify the basis for the remaining adjustment amount for the 2018 and 2019 periods, which exceeds the adjustment value by (2) billion Riyals for 2018 alone, which are the budget revenues for 2018. The same applies to 2019. Furthermore, merely referring to the inflation of customer accounts without demonstrating how the inflation was calculated on customer accounts and the impact of this inflation on the adjustment across the audit periods is not a productive argument to prove the validity of the Defendant's decision to adjust, especially since the Plaintiff submitted a technical report explaining that the reason for the inflation is the reflection of the impact of historical revenue movements from before 2018, meaning that this inflation relates to revenues before the law comes into force. Therefore, due to the lack of clarity in the reasons upon which the Defendant based its decision to calculate the final assessment for the tax period of February 2018, the Department concludes that the Defendant's decision violates Paragraph (2) of Article (64) of the Implementing Regulations of the Value Added Tax Law, which states: "An assessment issued by the Authority shall at a minimum show the Net Tax payable, the due date for payment, and the basis for calculation of the assessment. The assessment shall notify the Taxable Person of its rights to appeal the assessment." Accordingly, and based on the above, the Department deems it appropriate to annul the Defendant's decision.

Regarding the Misdeclaration Penalty and the Late Payment Penalty, and since our opinion in the First Item above has led to the annulment of the Defendant's decision, and given that the Misdeclaration Penalty and the Late Payment Penalty resulted from that decision, what is related to it follows its ruling, in accordance with the provisions of Paragraph (1) of Article (42) of the Value Added Tax Law, we find it appropriate to annul the Defendant's decision.

For these reasons, and after due deliberation in accordance with the Law, the Department unanimously decided the following:

Decision:

First: Accepting Plaintiff's case in form.

Second: On merits: Annulment of ZATCA's decision regarding the reassessment for the month of February 2018, imposing a value-added tax (VAT) of (1,728,813) Riyals, a Misdeclaration Penalty of (71,864,406) Riyals, and a Late Payment Penalty of (18,4.149.125) Riyals.

This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days as it deems appropriate. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. This decision shall be considered final and enforceable upon the expiration of this period. The date on which the decision is made available on GSTC e-portal shall be considered the date of delivery of the decision.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.



(The judgment acquired finality due to the abandonment of the proceedings pursuant to Article 33 (3) of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

First Department to Adjudicate The Value Added Tax Violations and Disputes in Riyadh

Decision No. (VR-2022-1011)
Delivered in Case No. (V-55898-2021)

Key words:

Value Added Tax (VAT) - Tax Reassessment - Misdeclaration Penalty - Late Payment Penalty - Calculation of Final Assessment - Statutory Period.

Abstract

The Plaintiff seeks the annulment of the Zakat, Tax and Customs Authority's (ZATCA) decision regarding the reassessment for January 2018, imposing a VAT of (2,820,419.37) Riyals, a Misdeclaration Penalty of (1,410,209.69) Riyals, and a Late Payment Penalty of (6,910,027.46) Riyals, on the Grounds that the Defendant failed to clarify the basis for calculating the assessment. The Department found that the Defendant did not provide a clear basis for the assessment calculation. Consequently, due to the lack of clarity in the reasons upon which the Defendant based its decision for the final assessment of the January 2018 tax period, the Department concludes that the Defendant's decision violates Paragraph (2) of Article (64) of the Implementing Regulations of the Value Added Tax Law. Regarding the misdeclaration penalty and the late payment penalty, and considering that our opinion in the first item above has led to the annulment of the Defendant's decision, and given that the misdeclaration penalty and the late payment penalty resulted from that, then what is related to it follows its ruling. - the implication of this is: Annulment of ZATCA's decision concerning the January 2018 reassessment, the imposed VAT, the Misdeclaration Penalty, and the Late Payment Penalty - the decision is considered final and enforceable.

Instruments:

- Article (42/1) of [the Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Article (9/5) and Article (64/2) of [the Implementing Regulations of the Value Added Tax Law issued by the Board of Directors of the General Authority of Zakat and Tax \(GAZT\) Resolution No. \(3839\) dated 14/12/1438 AH.](#)
- Article (3/6) of [the Statute of the Saudi Organization for ..., issued on 01/01/1422 AH, corresponding to 26/03/2001 AD, by Council of Ministers Resolution No. 235 dated 27/8/1422 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday, corresponding to 01/06/2022, the first department to adjudicate the value added tax violations and disputes in Riyadh convened. This Department was established pursuant to the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH and its amendments,



formed by Royal Order No. 65474 dated 23/12/1439 AH, and reconstituted by Royal Order No. (19575) dated 09/04/1442 AH. The purpose of the meeting was to consider the aforementioned lawsuit. Having met the prescribed regulatory requirements, the case was filed with the General Secretariat of Zakat, Tax and Customs Committees on 22/06/2021.

The facts of this case are summarized as follows: Mr. ..., holder of National ID No. (...), in their capacity as the duly authorized representative of the Saudi Organization for ..., with TIN No. (...), submitted a statement of claim. This claim contested ZATCA's decision regarding the reassessment for the month of January 2018, which imposed a value-added tax (VAT) of (2,820,419.37) Riyals, a Misdeclaration Penalty of (1,410,209.69) Riyals, and a Late Payment Penalty of (6,910,027.46) Riyals.

Upon presentation of the statement of claim to the Defendant, the Defendant submitted a three-page memorandum of defense. This memorandum asserted the validity of the Defendant's decision and requested a judgment dismissing the case.

On Tuesday, 17/03/2022, the Department convened its first session, based on Item (2) of Article Fifteen of the Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the case, the Plaintiff's representative, Mr. ..., holder of National ID No. (...), by virtue of PoA No. (...), appeared. Also present were the Plaintiff's tax advisors, Mr. ..., holder of National ID No. (...), and Mr. ..., holder of National ID No. (...), as well as Mr. ..., holder of National ID No. (...), representing the Zakat, Tax and Customs Authority (ZATCA) by virtue of PoA issued by ZATCA under No. (...). After verifying the identity of the appearing parties by viewing their respective national ID cards and confirming their capacities, the Department decided to proceed with the hearing of the case. The Plaintiff's representative requested an extension to submit a detailed statement including the tax period, the disputed tax amount, the types of disputed penalties, and their respective amounts. Given the aforementioned, and after discussion, the Department decided to grant the Plaintiff's representative's request and grant them a one-week extension to submit their statement, provided that a copy thereof is provided to ZATCA's representative for their response if they so wish. The hearing of the case was adjourned to the session scheduled for Wednesday, 11/05/2022.

On Wednesday, 11/05/2022, the Department convened its second session, based on Item (2) of Article Fifteen of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the case, the Plaintiff's representative, Mr. ..., holder of National ID No. (...), by virtue of PoA No. (...), appeared. Also present was the Plaintiff's tax advisor, Mr. ..., holder of National ID No. (...), and Mr. ..., holder of National ID No. (...). After verifying the identity of the appearing parties by viewing their respective national ID cards and confirming their capacities, the Department decided to proceed with the hearing of the case. In the statement of claim, the Plaintiff's representative requested the annulment of ZATCA's decision regarding the reassessment for the month of January 2018, which imposed a value-added tax (VAT) of (2,820,419.37) Riyals, a Misdeclaration Penalty of (1,410,209.69) Riyals, and a Late Payment Penalty of (6,910,027.46) Riyals. Based on the details provided in the statement of claim, and upon questioning the Defendant's representative regarding their response to the Plaintiff's claim, they maintained the validity of ZATCA's decision based on the details provided in the submitted memorandum of defense in response to the Plaintiff's claim, and the attached documents. Upon questioning both parties regarding any further submissions, each party stated that they would rely on their previous submissions. Given the aforementioned, and after deliberation, the Department decided to close the pleadings and reserve the case for consideration, scheduling Wednesday, 01/06/2022, as the date for pronouncement of the decision.

On Wednesday, 01/06/2022, the Department convened its third session, based on Item (2) of Article Fifteen of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the case, the Plaintiff's representative, Mr. ..., holder of National ID No. (...), by virtue of PoA No. (...), appeared. Also present was the Plaintiff's tax advisor, Mr. ..., holder of National ID No. (...), and Mr. ..., holder of National ID



No. (...), representing the Zakat, Tax and Customs Authority (ZATCA) by virtue of PoA issued by ZATCA under No. (...). After verifying the identity of the appearing parties by viewing their respective national ID cards and confirming their capacities, and as the Department had decided in the previous session to close the pleadings and reserve the case for further review, this day was set for the pronouncement of the decision.

Grounds

Having reviewed Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH and its amendments, its Implementing Regulations issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH and their amendments, and having reviewed Zakat, Tax, and Customs Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH, and other relevant laws and regulations.

As to Form: Given that the Plaintiff seeks the annulment of the Defendant's decision regarding the reassessment for the month of January 2018 and the imposition of value-added tax, based on the Value Added Tax Law and its Implementing Regulations, and considering that this dispute is a tax dispute, it falls within the jurisdiction of the Tax Committee for Resolution of Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH. Furthermore, as the case was filed by a party with standing and within the statutory period, the Department hereby accepts the case in form.

On merits: After reviewing the entire case file and its contents, it is evident to the Department that the dispute lies in the final assessment notice for the tax period of January 2018, resulting from the addition of (56,408,387.42) Riyals to the basic rate taxable sales item and a tax of (2,820,419.37) Riyals, due to a sales difference that was not disclosed in the declaration. The Plaintiff argued that the Defendant did not clarify the basis for calculating the assessment, as it examined the tax declarations for the period from January to September 2018 and the two periods of December 2018 and 2019, representing (11) tax periods with a total tax due of (116,205,095) Riyals, without explaining how the amount was reached and calculated. The financial statements for 2018 and 2019 showed revenues of (652,575,876) Riyals and (646,771,359) Riyals, respectively, while the Defendant added sales amounting to (2,324,101,890) Riyals, claiming sales differences between the revenues in the financial statements and the tax declarations amounting to (506,444,378) Riyals for 2018 and (133,343,583.74) Riyals for 2019. However, it is evident to the Department that the Defendant did not provide a clear basis for calculating the assessment, for several reasons:

First: The final assessment notice regarding the calculated differences is unclear.

Second: The total revenue in the tax declarations for 2018 (172,657,378.82) Riyals is the amount declared for the tax periods from January to September 2018 and December 2018, and does not include the October and November 2018 periods. Therefore, the calculated difference is considered incorrect and does not explain the taxable amount.

Third: The total revenue in the financial statements for 2018 includes: (a) License issuance fees, which are not subject to tax as they pertain to a public authority, as per Paragraph (6) of Article (3) of the Statute of the Saudi Organization for Industrial Estates and Technology Zones. (b) Rental revenues in Note (18), which include residential areas. (c) Other revenues in Note (21), which include non-taxable fines.

Fourth: Details of the remaining amount of revenue differences between the financial statements and tax declarations and their source were not provided.

Fifth: The Defendant stated a discrepancy between the sales statements and the Plaintiff's declarations, implying the non-submission of a correct document, without specifying the disputed difference amount.

Sixth: Documents were requested, and only one (1) day was allowed for their submission, as indicated in the correspondence submitted by the Defendant.

Seventh: The difference amount pertains to the entire year of 2018 and does not specify each period separately. Based on the foregoing, it is evident that the Plaintiff is organized as a public



authority with an independent legal personality, headed by the Minister of Industry as it falls under the Ministry of Industry pursuant to the Council of Ministers Resolution No. (235) dated 27/08/1422 AH, which entrusted the Plaintiff with specific tasks, and that it engages in non-economic activities according to Paragraph (5) of Article (9) of the Regulations. Regarding the Defendant's explanation of the basis for calculating the value difference in matching declaration revenues with the income statement, it did not clarify the basis for the remaining adjustment amount for the 2018 and 2019 periods, which exceeds the adjustment value by (2) billion Riyals for 2018 alone, which are the budget revenues for 2018. The same applies to 2019. Furthermore, merely referring to the inflation of customer accounts without demonstrating how the inflation was calculated on customer accounts and the impact of this inflation on the adjustment across the audit periods is not a productive argument to prove the validity of the Defendant's decision to adjust, especially since the Plaintiff submitted a technical report explaining that the reason for the inflation is the reflection of the impact of historical revenue movements from before 2018, meaning that this inflation relates to revenues before the law comes into effect. Therefore, due to the lack of clarity in the reasons upon which the Defendant based its decision to calculate the final assessment for the tax period of January 2018, the Department concludes that the Defendant's decision violates Paragraph (2) of Article (64) of the Implementing Regulations of the Value Added Tax Law, which states: "An assessment issued by the Authority shall at a minimum show the Net Tax payable, the due date for payment, and the basis for calculation of the assessment. The assessment shall notify the Taxable Person of its rights to appeal the assessment." Accordingly, and based on the above, the Department deems it appropriate to annul the Defendant's decision. Regarding the Misdeclaration Penalty and the Late Payment Penalty, and since our opinion in the First Item above has led to the annulment of the Defendant's decision, and given that the Misdeclaration Penalty and the Late Payment Penalty resulted from that decision, what is related to it follows its ruling, in accordance with the provisions of Paragraph (1) of Article (42) of the Value Added Tax Law, we find it appropriate to annul the Defendant's decision. For these reasons, and after due deliberation in accordance with the Law, the Department unanimously decided the following:

Decision:

First: Acceptance of Plaintiff's case in form.

Second: On merits: Annulment of ZATCA's decision regarding the reassessment for the month of January 2018, imposing a value-added tax (VAT) of (2,820,419.37) Riyals, a Misdeclaration Penalty of (1,410,209.69) Riyals, and a Late Payment Penalty of (6,910,027.46) Riyals.

Third: This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days as it deems appropriate. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. The decision is considered final and enforceable after the expiry of this period, and the date of the decision's availability on GSTC e-portal is considered the date of the decision's delivery.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(The judgment acquired finality due to the abandonment of the proceedings pursuant to Article 33 (3) of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

The Second Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh

Decision No. (VSR-2022-1989)
Delivered in Case No. (V-116381-2021)

Key words:

Value Added Tax - Final Assessment for the Tax Period - Contention is a Fundamental Element for the Continuation of the Case Hearing - Proof of the Resolution of the Dispute.

Abstract

The Plaintiff seeks the annulment of the Zakat, Tax and Customs Authority's (ZATCA) decision regarding their objection to the final assessment for the second quarter of 2021. Statutory provisions indicate that a lawsuit is established upon the existence of the element of contention. If this element is absent or ceases to exist for any reason at any stage of the proceedings, it becomes necessary to rule on the termination of the contention. The Department has established that the Defendant, ZATCA, has canceled the penalty and requested the dismissal of the case, and has provided the Department with evidence of the penalty's cancellation. This Department ruled to Proof of the Resolution of the Dispute - The decision is considered final.

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday, 30/08/2022, the Department established pursuant to the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH and its amendments, and formed by Royal Order No. (17218) dated 27/03/1442 AH, convened to consider the aforementioned case.

The facts of this case are summarized as follows: The Plaintiff, Mr. ..., holder of National ID No. (...), Being owner of ... Trading Establishment under Commercial Registration No. (...), submitted an objection to the final assessment for the second quarter of 2021 issued by the Zakat, Tax and Customs Authority (ZATCA).

Upon presentation of the statement of claim to the Defendant, ZATCA raised a plea of inadmissibility of the case in form due to the decision's immunity from challenge. On Tuesday, 23/08/2022, the session was convened via video conference in accordance with the remote video litigation procedures, based on Item (2) of Article Fifteen of the Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the case, Mr. ..., holding Civil Registry No. (...), appeared in person. Also present was Ms. ..., holding Civil Registry No. (...), in her capacity as the representative of the Defendant, "Zakat, Tax and Customs Authority (ZATCA)," by virtue of the PoA No. (...) dated 18/10/1443 AH, issued by the Deputy Governor for Legal Affairs and Compliance. When asked about his claim, the Plaintiff responded in accordance with the statement of claim and adhered to its contents. When the Defendant's representative was asked about her response, she responded in accordance with the memorandum of defense and insisted on the inadmissibility of the case on procedural Grounds. Upon presenting this to the Plaintiff, he stated that he possessed medical reports proving that his health condition had prevented him from objecting and requested an



extension from the Department to provide them. Accordingly, the Department decided to grant the request for an extension and adjourned the hearing of the case to 30/08/2022 at 02:00 PM. On Tuesday, 30/08/2022, the session was convened via video conference in accordance with the remote video litigation procedures, based on Item (2) of Article Fifteen of the Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) on: dated 21/04/1441 AH. Upon calling the parties to the case, Mr. ..., holding Civil Registry No. (...), appeared in person. Also present was Ms. ..., holding Civil Registry No. (...), in her capacity as Defendant's representative "ZATCA" by virtue of authorization No. (....) dated .../10/1443 AH, issued by the Deputy Governor for Legal Affairs and Compliance. When asked about his claim, the Plaintiff responded in accordance with the statement of claim and adhered to its contents. When the Defendant's representative was asked about her response, she stated that ZATCA had canceled the penalty and requested the dismissal of the case, and had provided the Department with a (SAP) document proving the cancellation of the penalty.

Grounds

Having reviewed the relevant laws and regulations, and considering that a lawsuit is established upon the existence of the element of contention, and whenever this element is absent or ceases to exist for any reason at any stage of the proceedings, it becomes necessary to rule on the termination of the contention. Furthermore, as the Defendant's representative stated in the session held on 30/08/2022 that the dispute should be considered resolved due to the cancellation of the penalty that is the subject of the case, the Department concludes that the contention has ended. The Department unanimously decided:

Decision:

- To acknowledge the termination of the contention based on the statement of the Defendant's representative.

This decision was rendered in the presence of both parties. The date of depositing the decision on GSTC e-portal shall be considered the date of delivery of the decision, and the decision shall be considered final and enforceable in accordance with Article (Forty-two) of the Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(The judgment acquired finality due to the acknowledgment of the termination of the dispute pursuant to Article 33 (3) of the Zakat, Tax, and Customs Committee Procedures).



Value-Added Tax

Determination Committee

The Second Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh

Decision No. (VSR-2022-1789)
Delivered in Case No. (V-65272-2021)

Key words:

Value Added Tax - Final Assessment - Reverse Charge - Misdeclaration Penalty - Late Payment Penalty.

Abstract

The Plaintiff seeks the annulment of the Zakat, Tax and Customs Authority's (ZATCA) decision regarding the final assessment for the fourth quarter of 2019, the Misdeclaration Penalty, and the Late Payment Penalty. ZATCA responded by contesting the admissibility of the lawsuit. - The Department found that concerning the 5% taxable sales amounting to (210) Riyals: The Plaintiff's claim lies in considering the discrepancies between the tax declaration for the fourth quarter of 2019 and their records with the Ministry of Justice, due to the existence of sales not declared by the Plaintiff in their tax return for the tax period in question, as if the tax amount had been paid. Subsequently, ZATCA re-assessed and added an unrelated amount. However, the documents submitted by the Plaintiff, consisting of a sales check, tax amount, and brokerage fee, are not considered sufficient evidence to prove the validity of their claim that the Defendant's amendment decision was incorrect. The Plaintiff did not provide contradictory evidence from the same source of the amendment (a third party), which would be the issuance of a statement from the Ministry of Justice detailing the deeds issued during the period and their value to prove the accuracy of their declaration, nor a bank statement clarifying their income from real estate sales during the tax period in question as supporting documentation for the accuracy of their declaration. In contrast, the Defendant submitted Deed No. (...) dated (04/02/1441 AH) and Deed No. (...) dated (11/02/1441 AH), based on which the Defendant amended the Plaintiff's declaration according to the final assessment notice. With regard to the Misdeclaration Penalty, The penalty resulted from the Defendant's amendment of the Plaintiff's declaration for the period in dispute. As the Department ruled against the Plaintiff in the first point, the consequences thereof apply accordingly. With regard to the late payment fine, The penalty was due to the non-payment of the outstanding tax within the statutory period, which resulted from the Defendant's amendment of the Plaintiff's declaration. As the amendment (assessment) resulted in calculating a larger tax amount than what was due, and the Department ruled against the Plaintiff in the first point, the consequences of the non-payment of the differential tax apply accordingly. - Outcome: Dismissing the Plaintiff's case on substantive Grounds regarding the final assessment for the fourth quarter of 2019 and the resulting Misdeclaration Penalty and Late Payment Penalty.

Instruments:

- Articles (42/1) and (43) of [the Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)



- Article (14) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) on 14/12/1438 AH.](#)

Facts:

All praise is due to Allah, prayers and peace be upon the last Prophet Mohammad, and be upon his relatives and all his companions; now therefore:

On Thursday, 26/05/2022, the Second Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh, established pursuant to the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH and its amendments, and formed by Royal Order No. (17218) dated 27/03/1442 AH, convened to consider the aforementioned case. As the case met the prescribed legal requirements, it was filed with the General Secretariat of the Tax Committees on 16/08/2021. The facts of this case are summarized as follows: The Plaintiff, Mr. ..., holder of National ID No. (...), submitted a statement of claim that included his objection to the final assessment for the fourth quarter of 2019, the Misdeclaration Penalty, and the Late Payment Penalty.

Upon presentation of the statement of claim to the Defendant, ZATCA responded by arguing for the inadmissibility of the case based on Article 26 (1), and Article 64 (1) of the Value Added Tax Law, and Article (14) of its Implementing Regulations.

On Thursday, 26/05/2022, the session was convened via video conference in accordance with remote video litigation procedures, based on Item (2) of Article Fifteen of the Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH, to consider the case. The Plaintiff appeared in person, and Ms. ..., holder of National ID No. (...), appeared in her capacity as the representative of the Defendant by virtue of PoA No. (...) dated .../05/1441 AH, issued by the Deputy Governor for Legal Affairs. When asked about his claim, the Plaintiff responded in accordance with the statement submitted to the General Secretariat of the Zakat, Tax and Customs Committees and adhered to its contents. When the Defendant's representative was asked about her response, she adhered to the content of the memorandum of defense. Furthermore, based on the Department's request, she submitted the two sale deeds that resulted in the amendment of the Plaintiff's declaration according to the final assessment notice. When both parties were asked if they had anything further to add, they decided to rely on their previous submissions. Accordingly, the Department decided to adjourn session for deliberation before issuing decision.

Grounds

Having reviewed the case documents and after careful examination, and having reviewed the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH and its amendments, its Implementing Regulations issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH and their amendments, and based on the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH and its amendments, the Implementing Regulations of the Law issued by the Board of Directors of the General Authority of Zakat and Tax Resolution No. (3839) dated 14/12/1438 AH and their amendments, the Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC), and other relevant laws and regulations.

As to Form: Given that the Plaintiff seeks the annulment of the Defendant's decision regarding the final assessment for the fourth quarter of 2019, based on the Value Added Tax Law and its Implementing Regulations, and considering that this dispute is considered one of the disputes falling within the jurisdiction of the Tax Committee for Resolution of Tax Violations and Disputes pursuant to Royal Decree No. (M/113) dated 02/11/1438 AH, and as the case was filed by a party with standing and within the statutory period, the case is hereby accepted in form.



On merits: After reviewing the agreement, the law, and the relevant regulations, and referring to the complete case file and the arguments of the parties, it became clear to the Department that the Plaintiff objects to the 5% taxable sales, the Misdeclaration Penalty, and the Late Payment Penalty for the final assessment of the fourth quarter of 2019.

First: Regarding the 5% taxable sales amounting to (210) Riyals: Upon reviewing the documents, we find that the Plaintiff's claim lies in considering the discrepancies between the tax declaration for the fourth quarter of 2019 and his records with the Ministry of Justice due to the existence of sales not declared by the Plaintiff in his tax return for the tax period in question, as if the tax amount had been paid. Subsequently, ZATCA re-assessed and added an unrelated amount. However, the documents submitted by the Plaintiff, consisting of a sales check, tax amount, and brokerage fee, are not considered sufficient evidence to prove the validity of his claim that the Defendant's amendment decision was incorrect. The Plaintiff did not provide contradictory evidence from the same source of the amendment (a third party), which would be the issuance of a statement from the Ministry of Justice detailing the deeds issued during the period and their value to prove the accuracy of his declaration, nor a bank statement clarifying his income from real estate sales during the tax period in question as supporting documentation for the accuracy of his declaration. In contrast, the Defendant submitted Deed No. (...) dated (04/02/1441 AH) and Deed No. (...) dated (11/02/1441 AH), based on which the Defendant amended the Plaintiff's declaration according to the final assessment notice. Article (14) of the Implementing Regulations of the Value Added Tax Law states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom". Accordingly, the Department decided to dismiss the Plaintiff's objection regarding this item.

Second: Regarding the Misdeclaration Penalty: Upon review, it is evident that the penalty resulted from the Defendant's amendment of the Plaintiff's declaration for the period in dispute. Based on the provision of Paragraph (1) of Article (42) of the Value Added Tax Law: "Any person who files an incorrect tax return to the Authority, amends a tax return after being filed, or files any document with the Authority in relation to the tax due by him which results in an error in the calculation of the tax amount resulting in an amount that is less than the tax due shall be subject to a fine equal to 50% of the difference between the calculated tax and the tax due." As the Department ruled against the Plaintiff in the first item, the consequences thereof apply accordingly. Therefore, the Department decided to dismiss the objection in this regard.

Third: Late payment fine: Upon review, it became clear that the penalty was due to the non-payment of the outstanding tax within the statutory period, which resulted from the Defendant's amendment of the Plaintiff's declaration, and because the amendment (assessment) resulted in calculating a larger tax amount than what was due. Based on the provision of Article (43) of the Value Added Tax Law: "Any person who fails to pay the tax due within the period specified by the Regulations shall be subject to a fine equal to 5% of the amount of the unpaid tax for each month or part thereof for which the tax is not paid." As the Department ruled against the Plaintiff in the first item, and since the non-payment of the differential tax resulted from that, the consequences thereof apply accordingly. Therefore, the Department decided to dismiss the objection in this regard.

Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Department, after unanimous deliberation, decided:

Decision:

First: Accepting Plaintiff's case in form.



Second: Dismissing the Plaintiff's case on substantive Grounds regarding the final assessment for the fourth quarter of 2019 and the resulting Misdeclaration Penalty and Late Payment Penalty. This decision was rendered in the presence of both parties. The Department has specified (30) thirty days as the deadline for receiving a copy of the decision, and the Department may extend the delivery date for another (30) thirty days as it deems appropriate. The parties to the case may file an appeal against this decision within (30) thirty days from the day following the designated date for its receipt. In the event that no objection is submitted, it shall become final and enforceable upon the expiration of this period.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

The Second Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh

Decision No. (VSR-2022-1766)
Delivered in Case No. (V-71879-2021)

Key words:

Value Added Tax - Field Control Penalty - Tax Invoice - Penalty for Incorrect Tax Identification Number

Abstract

The Plaintiff seeks the annulment of the Zakat, Tax and Customs Authority's (ZATCA) decision regarding the imposition of a penalty for incorrect tax identification number. ZATCA responded by contesting the admissibility of the lawsuit. The Department found that the dispute lies in the imposition of a field control penalty, resulting from non-compliance with the tax invoice requirements (incorrect tax identification number) amounting to (10,000) Riyals. The Defendant attached the establishment's Invoice No. (0924), Invoice No. (0902), and Invoice No. (0912), all dated (without date), which show that the Plaintiff incorrectly recorded the tax identification number on the invoices issued by them. The tax identification number on the invoices subject to control is (...), whereas the tax identification number according to the invoice attached by the Plaintiff is (...). The Plaintiff's claims of an unintentional error in displaying the certificate number and contracting the Coronavirus are not considered productive arguments in the case. The provisions of the agreement, law, and regulations have clearly outlined the requirements for a tax invoice. Outcome: Dismissing the Plaintiff's case on substantive Grounds regarding the field control penalty - The decision is considered final and enforceable pursuant to Article (42) of the Tax Dispute and Violation Committee Procedures.

Instruments:

- Article (45/3) of [the Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Article (53/8/b) of [the Implementing Regulations of the Value Added Tax Law issued by the Board of Directors of the General Authority of Zakat and Tax Resolution No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

All praise is due to Allah, prayers and peace be upon the last Prophet Mohammad, and be upon his relatives and all his companions; now therefore:

On Wednesday, 25/05/2022, the Second Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh, established pursuant to the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH and its amendments, and formed by Royal Order No. (17218) dated 27/03/1442 AH, convened to consider the aforementioned case. As the case met the prescribed legal requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 20/09/2021.



The facts of this case are summarized as follows: Mr. ..., holder of ID No. (...), in his capacity as the attorney of the Plaintiff, Ms. ..., holder of ID No. (...), by virtue of PoA No. (...), in her capacity as the owner of ... Trading Establishment under Commercial Registration No. (...), submitted a statement of claim that included his objection to the imposition of a penalty for incorrect tax identification number.

Upon presentation of the statement of claim to the Defendant, It responded by arguing for the inadmissibility of the case, based on Article (45), Paragraph (3) of the Value Added Tax Law and Article (53), Paragraph (b/8) of the Implementing Regulations of the same Law.

On Wednesday, 25/05/2022, the session was convened via video conference in accordance with remote video litigation procedures, based on Item (2) of Article Fifteen of the Tax Dispute and Violation Committee Procedures and Disputes issued by Royal Order No. (26040) dated 21/04/1441 AH, to consider the case. Neither the Plaintiff nor their representative attended, despite being duly notified of the session date. Ms. ..., holder of ID No. (...), appeared in her capacity as the representative of the Defendant by virtue of PoA No. (...) dated .../05/1441 AH, issued by the Deputy Governor for Legal Affairs. As the Department decided to proceed with the case due to its readiness for adjudication in accordance with the provisions of Article (20) of the Zakat, Tax, and Customs Committee

Procedures, the Defendant's representative was asked for her response, and she stated that she would rely on her previous submissions and provided the Department with the field control report and invoices.

Accordingly, the Department decided to adjourn session for deliberation before issuing decision.

Grounds

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Decision No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) and the relevant laws and regulations.

As to Form: Given that the Plaintiff seeks the annulment of the Defendant's decision regarding the imposition of a penalty for incorrect tax identification number, based on the Value Added Tax Law and its Implementing Regulations, and considering that this dispute is considered one of the disputes falling within the jurisdiction of the Tax Committee for Resolution of Tax Violations and Disputes pursuant to Royal Decree No. (M/113) dated 02/11/1438 AH, and as the case was filed by a party with standing and within the statutory period, the case is hereby accepted in form.

On merits: After reviewing the agreement, the law, and the relevant regulations, it is evident to the Department that the dispute lies in the imposition of a field control penalty, resulting from non-compliance with the tax invoice requirements (incorrect tax identification number) amounting to (10,000) Riyals. Paragraph (8/b) of Article (53) of the Implementing Regulations of the Value Added Tax Law, pertaining to tax invoices, states: "A simplified tax invoice must include the following details:" b.the name, address and Tax Identification Number of the Supplier." Furthermore, Paragraph (3) of Article (45) of the Value Added Tax Law states: "A fine not exceeding 50,000 riyals shall be imposed on any person who: 3. violates any other provision of the Law or the Regulations". The Defendant attached the establishment's Invoice No. (0924), Invoice No. (0902), and Invoice No. (0912), all dated (without date), which show that the Plaintiff incorrectly recorded the tax identification number on the invoices issued by them. The tax identification number on the invoices subject to control is (...), whereas the tax identification number according to the invoice attached by the Plaintiff is (...). The Plaintiff's claims of an



unintentional error in displaying the certificate number and contracting the Coronavirus are not considered productive arguments in the case. As the provisions of the agreement, law, and regulations have clearly outlined the requirements for a tax invoice, the Department finds the imposed penalty to be valid in accordance with the law.

Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Department, after unanimous deliberation, decided:

Decision:

First: Accepting Plaintiff's case in form.

Second: Dismissing Plaintiff's case on substantive Grounds regarding the field control penalty. This decision was rendered in the presence of both parties and is considered final and enforceable pursuant to Article Forty-two of the Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

The Second Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh

Decision No. (VSR-2022-1992)
Delivered in Case No. (V-55750-2021)

Key words:

Value Added Tax (VAT) - Misdeclaration - Reverse Charge - Tax Period - Sales Subject to Standard Rate - Late Payment.

Abstract

The Plaintiff instituted this case moving to cancel ZATCA's decision regarding the reassessment of local purchases subject to the standard tax rate for the tax period related to 4Q 2020, and the imposition of two fines: for misdeclaration and for late payment. The Plaintiff based its objection on the fact that ZATCA requested some additional documents to complete the examination and audit procedures. After contacting customer service by phone, it was stated that the declaration in question must be amended and the required documents attached. The Plaintiff then amended the declaration with the same data submitted in the pre-amendment declaration, amounting to (SAR 586.37). However, an amended declaration invoice was issued after the examination for the amount of (SAR 53,459.83). As such, the Plaintiff objects to the amendment issued by the Defendant, in addition to the fines, stating that the same data was submitted in both stages and there was no amendment. In response, ZATCA stated that upon reviewing the documents submitted by the Plaintiff, the amount of purchases declared by the Plaintiff in the disputed tax declaration was (SAR 356,398.85), while the amount calculated in the purchase statement was (SAR 309,912). It was also found that there were duplicate purchases, which necessitated their exclusion, resulting in an amount of (SAR 299,063.20) after the deduction. Furthermore, upon the Defendant's (ZATCA's) review of the invoices attached by the Plaintiff, it was found that there were invoices different from those mentioned in the purchase statement, in addition to invoices lacking an issuance date and invoices not compliant with the requirements of a tax invoice. Moreover, 6 invoices pertaining to previous periods were excluded because the Plaintiff could have deducted them in their respective tax periods. The Defendant (ZATCA) also pointed out that the Plaintiff did not provide the trial balance for the relevant period and did not attach the accounting entries for the purchases and proof of payment (receipt voucher or bank transfer) to complete the examination and audit process properly. The Department established the validity of ZATCA's claim, as indicated in its reply memorandum, regarding the existence of invoices different from those mentioned in the purchase statement. Discrepancies were noted such as (differences in invoice numbers, invoice dates, declared amounts, and the customer's name differing from the Plaintiff) between the samples of invoices submitted for (...) Company and the invoice data of (...) in the purchase statement attached for 4Q 2020. It was also noted that there were invoices that did not meet the requirements of tax invoices, such as (invoices not containing the correct customer's name); as it was observed that there is an invoice for (.... Company) containing (customer name: ..., instead of ...). Furthermore, upon reviewing the tax identification numbers of the suppliers, it was found that there were invoices such as (invoices of establishment) containing tax identification numbers of suppliers not registered for VAT. It was also established



that there were non-simplified invoices that did not contain the customer's address, such as (invoices of ... Company) and invoices of (... Group). It was also found that there were invoices not matching what was declared in the purchase statement, in addition to duplicate invoices and invoices not containing the invoice numbers in the purchase statement, and therefore they were excluded. The Plaintiff did not provide supporting documents for the discrepancies in some of its purchase invoices to allow for tax deduction on them, such as (bank statements, accounting entries, or supplier accounts confirming the validity of its claim). Moreover, after examining samples of invoices for all suppliers, it was found that there were deductible purchases amounting to (SAR 31,843) and tax of (SAR 4,776.48) as they met the requirements of tax invoices. Regarding the second item, the fine for misdeclaration related to 4Q 2020, and since the first item above led to the amendment of the Defendant's (ZATCA's) decision, the fine arising from it shall be subject to the same ruling. Regarding the third item, ZATCA's fine for late payment resulting from ZATCA's reassessment and related to 4Q 2020, since the late payment fine resulted from this, it shall be subject to the same ruling. Therefore, the Department ruled to: Accept the Plaintiff's case, amend the Defendant's decision regarding purchases subject to the standard tax rate for the disputed tax period, by accepting the deduction of input tax amounting to (SAR 4,776.48) and rejecting the rest, and amend the Defendant's decision regarding the fine for misdeclaration and the fine for late payment. This decision shall be deemed final and enforceable according to Article (42) of the Tax Dispute and Violation Committee Procedures.

Instruments:

- Articles (42/1) and (43) of [the Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (49/7, 8) and (53/H/1, 5) of [the Implementing Regulations of the VAT Law issued by Decision No. \(3839\) dated 14/12/1438 AH issued by ZATC's Board.](#)

Facts:

All praise is due to Allah, prayers and peace be upon the last Prophet Mohammad, and be upon his relatives and all his companions; now therefore:

On Thursday 17/11/1443 AH corresponding to 16/06/2022, Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH and amendments thereof, and constituted by Royal Order No. (17218) of 27/03/1442 AH, held its session to consider the case filed by/..... against ZATCA. Since the case met the prescribed legal requirements, it was filed with General Secretariat of the Tax Committees on 21/06/2021.

Facts of the case are summarized as follows: Mr., ID No. (...), in his capacity as Attorney of Plaintiff, ..., ID No. (...), in her capacity as Owner of ... Trading Company, CR No. (...), by virtue of POA No. (...), submitted a statement of claim that included his objection to ZATCA's decision regarding the reassessment of local purchases subject to the standard tax rate for the tax period related to 4Q 2020, and to the imposition of two fines: for misdeclaration and for late payment, requesting the cancellation of the Defendant's decision.

On Sunday, 11/03/1443 AH, corresponding to 17/10/2021, the session was convened via virtual communication in accordance with remote litigation procedures based on Article (15.2) of Tax Dispute and Violation Committee Procedures, issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the case, neither the Plaintiff nor their legally authorized Representative appeared, despite proof of their notification of this session's date via the registered email in the case file. Ms. ..., ID No (...), attended in her capacity as the representative of the Defendant, "Zakat, Tax and Customs Authority (ZATCA)," by virtue of the PoA No. (...) dated 17/08/1442 AH, issued by the Deputy Governor for Legal Affairs. Accordingly, the Department decided to dismiss the case due to its lack of jurisdiction.



On 17/10/2021, the Plaintiff submitted a request to reopen the Case.

On Wednesday, 20/08/1443 AH, corresponding to 23/03/2022, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling parties to the case, an Attorney for the Plaintiff, ..., appeared, but his POA did not authorize him to litigate on behalf of the Plaintiff. Also Ms., ID No. (...), attended in her capacity as the representative of the Defendant, "Zakat, Tax and Customs Authority (ZATCA)," by virtue of the PoA No. (...) dated 04/06/1442 AH, issued by the Deputy Governor for Legal Affairs. Accordingly, the Department decided to adjourn hearing of the case to a session on Sunday, 08/05/2022, at 2:00 PM, to rectify the POA.

On Sunday, 07/10/1443 AH, corresponding to 08/05/2022, the session was convened via virtual communication in accordance with remote litigation procedures based on Article (15.2) of Tax Dispute and Violation Committee Procedures, issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling parties to the case, the Plaintiff's Attorney, ..., Civil Registry No. (...), appeared in his capacity as Attorney for the Plaintiff, by virtue of POA No. (...). Also Ms., Civil Registry No. (...), attended in her capacity as the representative of the Defendant, "Zakat, Tax and Customs Authority (ZATCA)," by virtue of the PoA No. (...) dated 04/06/1442 AH, issued by the Deputy Governor for Legal Affairs. During this session, the Plaintiff's Attorney requested a deadline to submit the invoices relevant to the case. Accordingly, the Department decided to adjourn hearing of the case to a session on Wednesday, 11/05/2022 AD, at 2:00 PM.

On Wednesday, 10/10/1443 AH, corresponding to 11/05/2022, the Department held its session via video conference a session with remote litigation procedures pursuant to Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. When the case was called, the Plaintiff's Attorney, (...), ID No. (...), was present in his capacity as Attorney for the Plaintiff, by virtue of POA No. (...). Also Ms., Civil Registry No. (...), attended in her capacity as the representative of the Defendant, "Zakat, Tax and Customs Authority (ZATCA)," by virtue of the PoA No. (...) dated .../06/1442 AH, issued by the Deputy Governor for Legal Affairs. During this session, the Department asked the Plaintiff's Attorney about the reason for the adjournment, and he submitted a set of files that were attached to the case file. He also added that the submitted invoices pertain to two establishments, each with a separate commercial registration from the other, but both under one unique identification number. Upon presenting this to the Defendant's Representative, she requested a deadline to submit her substantive defenses. Accordingly, the Department decided to adjourn hearing of the case to a session on Monday, 23/05/2022, at 2:00 PM, provided that ZATCA's Representative submits her response no later than 16/05/2022.

On 16/05/2022, the Defendant attached a reply memorandum consisting of two pages.

On Monday 22/10/1443 AH, corresponding to 23/05/2022, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling parties to the case, the Plaintiff's Attorney, ..., Civil Registry No. (...), appeared in his capacity as Attorney for the Plaintiff, by virtue of POA No. (...). Also Ms., Civil Registry No. (...), attended in her capacity as the representative of the Defendant, "Zakat, Tax and Customs Authority (ZATCA)," by virtue of the PoA No. (...) Dated .../06/1442 AH, issued by the Deputy Governor for Legal Affairs. During this session, the Department asked the Defendant's Representative about the reason for the adjournment, and she submitted a second reply memorandum. Upon presenting this to the Plaintiff's Attorney, he stated that he would rely on what had already been submitted in this case. Accordingly, the Department decided to reserve this case for study and adjourn hearing to a session on Thursday, 09/06/2022, at 2:00 PM.

On Thursday, 10/11/1443 AH, corresponding to 09/06/2022, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated



21/04/1441 AH. Upon calling parties to the case, Mr. ..., ID No. (...), appeared by virtue of a valid POA No. (...) dated 08/09/1443 AH. Also Ms. (...) Civil Registry No. (...), was present in her capacity as the representative of the Defendant, “Zakat, Tax and Customs Authority (ZATCA),” by virtue of the PoA No. (...) dated .../06/1442 AH, issued by the Deputy Governor for Legal Affairs. During this session, after reviewing the case documents, the Department directed a question to the Defendant's Representative regarding the validity of the Plaintiff's Attorney's statement that ... Trading Company holds the unique identification number (...). The Defendant's Representative responded that the Plaintiff's unique identification number is associated with the unified commercial registration number (...) belonging to ... Trading Company, which was cancelled on 22/04/2021. She also provided the Department with a set of documents that were placed in the case file. Upon presenting this to the Plaintiff's Attorney, he stated that he confirms his previous statement that his client's unique identification number is associated with the commercial registration of ... Trading Company and the commercial registration of ... Trading Company. Having asked both parties if they would like to add any statements or documents, they satisfied with their earlier submissions at that session. Accordingly, the Department decided to adjourn hearing of the case to Thursday, 16/06/2022, at 1:00 PM, for further study in light of the statements made in this session.

On Thursday, 17/11/1443 AH, corresponding to 16/06/2022, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling parties to the case, Mr. ..., ID No. (...), appeared by virtue of a valid POA No. (...) dated 08/09/1443 AH. Also Ms. (...) Civil Registry No. (...), was present in her capacity as the representative of the Defendant, “Zakat, Tax and Customs Authority (ZATCA),” by virtue of the PoA No. (...) dated .../06/1442 AH, issued by the Deputy Governor for Legal Affairs. As this session was scheduled for the issuance of the decision, the Department, after due deliberation, issued its ruling in this case as detailed below.

Grounds

After reviewing case papers, careful examination thereof, and in light of Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued pursuant to the Minister of Finance Decision No. (1535) of 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 H, and Common VAT Agreement of GCC States, as well as related laws and regulations:

In form: Since the Case was filed by a person with capacity. Therefore, the Department accepts the Case in form.

On Merits: Having taken cognizance of the case papers and documents and granted parties thereto sufficient time to present all arguments and documents, the Department found that the dispute lies in:

First item: Reassessment of local purchases subject to the standard tax rate for the tax period related to 4Q 2020. Article (49.7) of the Implementing Regulations of the Value Added Tax stipulates: “Input Tax may only be deducted where the Taxable Person holds evidence of the amount of Input Tax paid or payable in a form specified in Article forty-eight of the Agreement. In cases where the taxable person does not possess the required documents as specified in the Agreement, they may claim the deduction if they are able to provide the following alternative evidence to the Authority: (a) a Simplified Tax Invoice which is correctly issued in accordance with these Regulations”. (b) in the case of a Supply arising on the transfer of Goods to another Member State, a commercial or other document substantiating the value on which VAT is calculated at the



transfer date, (c) other commercial documentation permitted at the discretion of the Authority, evidencing that the Taxable Person has received the Supply and correctly incurred the VAT in question”. Additionally, Article (53.5) of the Implementing Regulations of the Value Added Tax stipulates: “A Tax Invoice must include the following details in Arabic, in addition to any other language also shown on the Tax Invoice as a translation: a) the date of issue, b) a sequential number which uniquely identifies the Tax Invoice, c) the Tax Identification Number of the Supplier, d) in cases where the Customer is required to self-account for Tax on the Supply, the Customer's Tax Identification Number and a statement that the Customer must account for the Tax, e) the name and the address of the Supplier and of the Customer, f) the quantity and nature of the Goods supplied, or the scope and nature of the services rendered, g) the date on which the Supply took place, where this differs from the date of issue of the Tax Invoice,” Paragraph (8) of the same Article provides for the contents of the simplified tax invoice as follows: "A simplified tax invoice must include the following details:" a) the date of issue, b) the name, address and Tax Identification Number of the Supplier, c) a description of the Goods or services supplied, d) the Consideration payable for the Goods or services, e) the Tax payable or a statement that the Consideration is inclusive of Tax in respect of the Supply of the Goods or services”. Moreover, Article (49.8) of the Implementing Regulations of the VAT Law stipulates: “A deduction of Input Tax may be made by a Taxable Person in a Tax Period subsequent to that Tax Period including the date of Supply, provided that the Taxable Person remains eligible to make such deduction under the other provisions of these Regulations. Input Tax may not be deducted in any period which falls more than five calendar years after the calendar year in which the Supply takes place” the Plaintiff stated that the Defendant (ZATCA) requested some additional documents to complete the examination and audit procedures. After contacting customer service by phone, it was stated that the declaration in question must be amended and the required documents attached. The Plaintiff then amended the declaration with the same data submitted in the pre-amendment declaration, amounting to (SAR 586.37). However, an amended declaration invoice was issued after the examination for the amount of (SAR 53,459.83). As such, the Plaintiff objects to the amendment issued by the Defendant, in addition to the fines, stating that the same data was submitted in both stages and there was no amendment. In response, ZATCA stated that upon reviewing the documents submitted by the Plaintiff, the amount of purchases declared by the Plaintiff in the disputed tax declaration was (SAR 356,398.85), while the amount calculated in the purchase statement was (SAR 309,912). It was also found that there were duplicate purchases, which necessitated their exclusion, resulting in an amount of (SAR 299,063.20) after the deduction. Furthermore, upon the Defendant's (ZATCA's) review of the invoices attached by the Plaintiff, it was found that there were invoices different from those mentioned in the purchase statement, in addition to invoices lacking an issuance date and invoices not compliant with the requirements of a tax invoice. Moreover, 6 invoices pertaining to previous periods were excluded because the Plaintiff could have deducted them in their respective tax periods. The Defendant (ZATCA) also pointed out that the Plaintiff did not provide the trial balance for the relevant period and did not attach the accounting entries for the purchases and proof of payment (receipt voucher or bank transfer) to complete the examination and audit process properly. Validity of ZATCA's claim was established regarding the discrepancies in invoices compared to what was mentioned in the purchase statement. Differences were observed such as (discrepancies in invoice numbers, invoice dates, declared amounts, and the customer's name differing from the Plaintiff) between the invoice samples submitted for (...) Company and the invoice data of (...) in the purchase statement attached for 4Q 2020. It was also noted that there were invoices that did not meet the requirements of tax invoices, such as (invoices not containing the correct customer name); as it was observed that there is an invoice for (... Company) containing (customer name: ..., instead of ...). Furthermore, upon reviewing the tax identification numbers of the suppliers, it was found that there were invoices such as (invoices of establishment) containing tax identification numbers of suppliers not registered for VAT. It was also established that there were non-simplified invoices that did not contain the customer's



address, such as (invoices of ... Company) and invoices of (... Group), which is considered a violation of paragraph (e/5) of Article (53) of the Implementing Regulations. Consequently, and whereas it was found that there were invoices not matching what was declared in the purchase statement, in addition to duplicate invoices and invoices not containing the invoice numbers in the purchase statement, and therefore they were excluded. And whereas the Plaintiff did not provide supporting documents for the discrepancies in some of its purchase invoices to allow for tax deduction on them, such as (bank statements, accounting entries, or supplier accounts confirming the validity of its claim). Moreover, after examining samples of invoices for all suppliers, it was found that there were deductible purchases amounting to (SAR 31,843) and tax of (SAR 4,776.48) as they met the requirements of tax invoices. Therefore, the Department concludes to accept the Plaintiff's claim for the deduction of its input tax in the amount of (SAR 4,776.48) and to exclude the rest.

Regarding the second item, Imposition of misdeclaration fine to 4Q 2018, Article (42.1) of the VAT Law states: "Any Person who files an incorrect Tax Return to ZATCA, amends a Tax Return after filing or files any document with ZATCA in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due." The first item above has led to the amendment of the Defendant's (ZATCA's) decision, and since the fine for misdeclaration resulted from that, it shall be subject to the same ruling, in accordance with Article (42.1) of the VAT Law.

Regarding the third item, ZATCA's fine for late payment resulting from ZATCA's reassessment in relation to 4Q 2020, Article (59.1) of the Implementing Regulations of the VAT Law stipulates: "Payment of Tax due by a Taxable Person in respect of a Tax Period must be made at the latest by the last day of the month following the end of that Tax Period". Additionally, Article (43) of the VAT Law states: "Whoever does not pay the tax due within the period specified by the Regulations shall be fined an amount equaling (5%) of the value of unpaid tax, for each month or fraction of month for which the tax was not paid". the first item above has led to the amendment of the Defendant's (ZATCA's) decision, and since the late payment fine resulted from that, it shall be subject to the same ruling, in accordance with the provisions of Article (43) of the VAT Law. Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Department, after unanimous deliberation, decided:

Decision:

First: Accept Plaintiff's case in form.

Second: Accept the Plaintiff's case, and amend the Defendant's decision regarding the item of purchases subject to the standard tax rate for the period in question, by accepting the deduction of input tax amounting to (SAR 4,776.48) and rejecting the rest.

Third: Accept the Plaintiff's case, and amend the Defendant's decision regarding the fine for misdeclaration and the fine for late payment, in accordance with what this decision concludes in item (Second).

This decision was issued in the presence of both parties. Either party to the case may appeal against the decision within 30 days from the day following the date set for receipt of the decision, whereafter, the decision will be final and enforceable. The date on which the decision is deposited in the electronic system of the General Secretariat of Zakat, Tax and Customs Committees is the date on which the decision is delivered.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

Appeal Committee:

Appeal Committee ruled to uphold Department decision.



Value-Added Tax

Determination Committee

The Second Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh

Decision No. (VSR-2022-1807)
Delivered in Case No. (V-64084-2021)

Key words:

Value Added Tax (VAT) – Final Assessment Notice – Tax Period – Purchases - Invoices - Sales Subject to standard rate - Misdeclaration Fine - Late Payment Fine.

Abstract

The Plaintiff instituted this case moving to cancel ZATCA's decision regarding the final assessment notice for the tax period related to 1Q 2021. The Plaintiff based its objection on the Grounds that their accountant is Saudi and suddenly fell ill and stopped working, and did not correspond with the examiner to send the required information. The examiner did not contact the mobile number registered in the system to remind the establishment owner. When the accountant did not respond to the examiner, the examiner should have contacted the Plaintiff personally, as their mobile number is registered in the system. Furthermore, the value of the bank guarantee is very high, as the Plaintiff's business operations involve rapid turnover and rely on quick liquidity, without which their work would stop completely, and that they operate on the general principle of "no harm shall be inflicted or reciprocated". Regarding the amendment of the purchases item for 1Q 2021, ZATCA stated That the amount was excluded due to the failure to provide ZATCA with the required invoices and documents. The Department established that the dispute lies in the final assessment notice for the tax period related to 1Q 2021 and the resulting fines. Regarding the item of local purchases subject to the standard rate, the Defendant excluded the local purchases subject to the standard tax rate due to violations of laws and regulations, in addition to the Plaintiff's failure to provide the necessary supporting documents during the examination period. The Plaintiff submitted a statement of purchases for 1Q 2021 and the supporting invoices, and upon the Department's review of the documents submitted by the Plaintiff and examination of a sample of invoices and their matching with the statement, it was established that a portion of the amount, totaling (SAR 845,383.88), met the requirements of a tax invoice according to the analytical statement of purchase invoices. The Department did not establish that the remaining portion of the amount, totaling (SAR 887,489.68), met the requirements of a tax invoice due to its non-conformity with the statement. Regarding the fine for misdeclaration, the fine resulted from a difference between what the Plaintiff submitted in their tax declaration and what resulted from the review process. The item above has led to the amendment of ZATCA's decision in its procedure. As for the fines for misdeclaration and late payment: They shall have the same ruling as the first item. The Department ruled to: Amend the Defendant's decision by accepting the deduction of purchases subject to the standard tax rate resulting from the final reassessment for 1Q 2021 in the amount of (SAR 845,383.88), and amend ZATCA's decision regarding the fines for misdeclaration and late payment.

Instruments:



- Article (48/ 1) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. M/51 dated 03/05/1438 AH.](#)
- Article (42/1) of [the Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)

Facts:



All praise is due to Allah, prayers and peace be upon the last Prophet Mohammad, and be upon his relatives and all his companions; now therefore:

On Thursday, 09/06/2022, the Second Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh, established pursuant to the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH and its amendments, and formed by Royal Order No. (17218) dated 27/03/1442 AH, convened to consider the aforementioned case. As the case met the prescribed legal requirements, it was filed with the General Secretariat of the Tax Committees on 10/08/2021. The facts of this case are as follows: Mr. ..., National ID No., in his capacity as owner of ... Contracting Establishment, Equipment Rental Establishment, CR No. (...), submitted his objection to the final assessment notice for the tax period related to 1Q 2021, and requests the cancellation of the Defendant's decision.

Having presented the statement of claim to Defendant, it answered as follows: 1- Regarding the amendment of the purchases item for 1Q 2021: a- We inform Your Honor that the presumption is that the decision is valid and sound, and anyone claiming otherwise must provide evidence to support their claim.

b- Regarding the Plaintiff's objection to the amendment of the item of local purchases subject to the standard tax rate for 1Q 2021, ZATCA's actions were in accordance with the provisions of Article (26.1) of the VAT Law, which stipulates: "-1 The Authority may conduct a tax assessment for the taxable person regardless of the tax return submitted by them." Moreover, Paragraph (1) of Article (64) of the Implementing Regulations of the Law of Value Added Tax stipulates: "The Authority may make an assessment of the VAT obligations of a Person in respect of one or more Tax Periods", which resulted in the amendment of the item of local purchases subject to the standard tax rate, as the amount was excluded due to the failure to provide ZATCA with the required invoices and documents. This concludes Defendant's response.

Upon presenting the Defendant's response to the Plaintiff, the Plaintiff submitted a memorandum summarized as follows: "We explained to ZATCA that our accountant is Saudi and suddenly fell ill, stopped working, and did not correspond with the examiner to send the required information. The examiner did not contact the mobile number registered in the system to remind the establishment owner, so that I could personally handle the matter and send all the required invoices to ZATCA. It was expected that if the accountant did not respond to the examiner, the examiner should have contacted me personally, as my mobile number is with you and registered in the system. How could the examiner close the request and issue the final assessment without contacting the establishment owner to confirm their awareness of the unsubmitted requests and give me a final opportunity to be informed and certain that there was an inspection of documents and data, and that non-response would result in fines? In addition to what has been explained and clarified above, the value of the bank guarantee is very high, as my business operations involve rapid turnover and rely on quick liquidity, without which my work would stop completely. We operate on the general principle of "no harm shall be inflicted or reciprocated." If the guarantee amount represented a portion of the disputed amount, say 15%, it would be reasonable and common practice. However, the high value of the guarantee, which halts my business operations or forces me to turn to a financing company to request funding to pay the bank guarantee, in addition to paying interest on the guarantee, is this sound logic?"

On Thursday, 14/04/2022, the session convened via video conference in accordance with the remote video litigation procedures, pursuant to the provisions of Article (15.2) of the Tax Dispute



and Violation Committee Procedures issued by Royal Decree No. 26040 dated 21/04/1441 AH. Having called the parties to the Case, the Department found that the Plaintiff, Civil ID No. (...) appeared. In addition, (...), ID No. (...), appeared in her capacity as Defendant's representative "ZATCA" by virtue of authorization No. (...) dated 04/06/1442 AH, issued by the Deputy Governor for Legal Affairs. When the Plaintiff was asked about his claim, he responded in accordance with what was stated in the statement of claim and insisted on its contents. He also added that he has purchase invoices he wishes to submit to the Department and requested a deadline. When the Defendant's Representative was asked about her response, she replied in accordance with the reply memorandum and insisted on its contents. Accordingly, the Department decided to accept the Plaintiff's request and adjourn hearing of the case to a session on Monday, 16/05/2022 at 2:00 PM, provided that he deposits the invoices in the system before 21/04/2022. On Thursday, 16/05/2022, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties to the Case, the Department found that the Plaintiff, Civil ID No. (...) appeared. In addition, (...), ID No. (...), appeared in her capacity as Defendant's representative "ZATCA" by virtue of authorization No. (...) dated 04/06/1442 AH issued by the Deputy Governor for Legal Affairs. During this session, the Department asked the Plaintiff's Representative about the claim, to which he responded: that he had submitted a sample of some invoices, and that he was unable to attach all the invoices due to their size. He also requested the Department to open a space in the system for submitting all the invoices. Upon presenting the above to the Defendant's Representative, she requested a continuance to submit her response. Accordingly, the Department decided to accept the Plaintiff's request and adjourn hearing of the case to a session on Thursday, 09/06/2022 at 2:00 PM, provided that the Plaintiff deposits the invoices in the system before 17/05/2022, and the Defendant's Representative submits its reply by Monday, 23/05/2022. On Thursday 09/06/2022, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the case, the Plaintiff, ..., ID No. (...), appeared in person. Also Ms. (...) Civil Registry No. (...), was present, in her capacity as Defendant's representative "ZATCA" by virtue of authorization No. (...) dated 04/06/1442 AH, issued by the Deputy Governor for Legal Affairs. During this session, after the Department studied the documents submitted by both parties, it directed a question to the Plaintiff about the tax period in question. He replied that it concerns the reassessment of the item of local purchases subject to the standard rate and the resulting fines for 1Q 2021. Having asked both parties if they would like to add any statements or documents, they were satisfied with their earlier submissions at that session. Accordingly, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

Having taken cognizance of Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by the Minister of Finance's Resolution No. (1535) dated

11/06/1425 AH, and upon careful examination, and in light of VAT Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH as amended and its Implementing Regulations issued by ZATCA's BOD Decision No. (3839) dated 14/12/1438 AH as amended, Tax Dispute and Violation Committee Procedure issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations:

In Form: Since Plaintiff filed the Case moving for cancelling ZATCA decision regarding the final assessment for the tax period pertaining to 1Q 2021 and the resulting fines, in accordance with the Law of Value Added Tax and its Implementing Regulations. Given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of Tax Violations and Disputes Committee



pursuant to Royal Order No. (M/113) dated 02/11/1438 AH. Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form.

On merits: upon the Department's consideration of the case documents and the responses of both parties after granting them sufficient time to present their statements and submissions, it was established that the dispute lies in the final assessment notice for the tax period related to 1Q 2021 and the resulting fines. Concerning the item of local purchases subject to the standard rate, the Defendant excluded the local purchases subject to the standard tax rate due to a violation of Article (48.1) of the Common VAT Agreement of GCC States, in addition to the Plaintiff's failure to provide the necessary supporting documents during the examination period. The Plaintiff submitted a statement of purchases for 1Q 2021 and the supporting invoices, and upon the Department's review of the documents submitted by the Plaintiff and examination of a sample of invoices amounting to (63%), equivalent to (SAR 1,732,873.56) out of the total amount of submitted invoices of (SAR 2,729,078.29), and their matching with the statement, it was established that a portion of the amount, totaling (SAR 845,383.88), met the requirements of a tax invoice according to the analytical statement of purchase invoices. The Department did not establish that the remaining portion of the amount, totaling (SAR 887,489.68), met the requirements of a tax invoice due to its non-conformity with the statement, which leads the Department to accept the Plaintiff's case and amend the Defendant's decision.

Regarding the item of the fine for misdeclaration, the fine resulted from a difference between what the Plaintiff submitted in their tax declaration and what resulted from the review process. Article (42.1) of the VAT Law stipulates "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due." The item above has led to the amendment of the Defendant's (ZATCA's) decision in its procedure, and since the fine for misdeclaration resulted from that, it shall be subject to the same ruling, which leads the Department to amend the Defendant's (ZATCA's) decision.

Regarding the late payment fine, as such fine resulted from the Defendant's (ZATCA's) amendment of the tax declaration for the Plaintiff, and whereas it was not paid on its statutory due date, and given that the items above have led to the amendment of the Defendant's (ZATCA's) decision in its procedure, and since the late payment fine resulted from that, it shall be subject to the same ruling, which leads the Department to amend the Defendant's (ZATCA's) decision.

Based on the above Grounds, and based on the Common VAT Agreement, VAT Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:

Decision:

First: To Accept case in form.

Second: Amend the Defendant's decision by accepting the deduction of purchases subject to the standard tax rate resulting from the final reassessment for the 1Q 2021 in the amount of (SAR 845,383.88).

Third: Amend the Defendant's decision regarding the fines for misdeclaration and late payment in accordance with item (Second) of this decision.

This decision was rendered in the presence of both parties. The Department has specified (30) thirty days as the deadline for receiving a copy of the decision, and the Department may extend the delivery date for another (30) thirty days as it deems appropriate. Either party to the case may appeal against the decision within 30 days from the day following the date set for receipt of the decision, whereafter, the decision will be final and enforceable.



May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

Appeal Committee:

Appeal Committee ruled to uphold Department decision.



Value-Added Tax

Determination Committee

The Second Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh

Decision No. (VSR-2022-2007)
Delivered in Case No. (V-89979-2022)

Key words:

Value Added Tax (VAT) - Final Assessment - Sales Subject to Standard Rate for Final Assessment - Misdeclaration Fine- Late Payment Fine - Input Tax - Acceptance of the Case in Form.

Abstract

The Plaintiff instituted this case moving to cancel ZATCA's decision regarding the final assessment for 2Q 2018, and the imposition of two fines: one for misdeclaration and another for late payment resulting from it. ZATCA responded that it stands by the validity of its decision in accordance with laws and regulations, and it also requests the committee to reject the case. The Department has established that the Plaintiff is requesting cancellation of the Defendant's decision regarding the final assessment for 2Q 2019, and the two fines for misdeclaration and late payment resulting from it. First: Item (Taxable Local Sales at Basic Rate): It is evident from the case file that the Plaintiff objects to the calculation of a sales amount higher than the actual amount of their sales. The Defendant argued that this amount represents undeclared revenues by the Plaintiff. However, considering that the real estate supply in question resulted from the expropriation of the Plaintiff's private property for public benefit, and this has been proven through the submitted documents, which include a (cheque) for the compensation amount to the Plaintiff dated 23/10/2017, i.e., before the law's entry into force and not based on the date of ownership transfer (because the expropriated property was for the benefit of implementing a project for the (Ministry of Transport)), and based on Article (1) of the Common VAT Agreement of GCC States: "Supplies on which Tax is charged in accordance with the provisions of the Agreement, whether at the standard rate or zero-rate, and for which associated Input Tax is deducted in accordance with the provisions of the Agreement," and Article (2) of the VAT Law: "Tax shall be imposed on the import and supply of Goods and Services in accordance with the provisions stipulated in the Agreement, the Law and the Regulations." and Article (14) of the Implementing Regulations of the VAT Law: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom,". Based on the foregoing, the Department concludes to accept the Plaintiff's case. Second: Item (Fine for Submission of Incorrect Tax Return): It is evident that the dispute lies in the imposition of a misdeclaration fine for the tax period related to 2Q 2018. Given that the Department's decision in item (First) led to the acceptance of the Plaintiff's case, and considering that the fine for misdeclaration resulted from this, and as the resulting occurrence shall take the same effect, the Department concludes to accept the Plaintiff's case. Third: Late Payment Fine: It is evident that the dispute lies in the imposition of a late payment fine for the tax period related to 2Q 2018. Given that the Department's decision in item (First) led to the acceptance of



the Plaintiff's case, and considering that the fine for late payment resulted from this, and as the resulting occurrence shall take the same effect, the Department concludes to accept the Plaintiff's case. Therefore, the Department ruled to: Accept the case in form and on merits, cancel the Defendant's decision regarding item sales subject to the standard rate of the final assessment for the disputed tax period, accept the Plaintiff's case, and cancel the two fines for misdeclaration and late payment.

Instruments:

- Article (1) of [Common VAT Agreement of GCC States, issued by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Article (14) of [the Implementing Regulations of the VAT Law issued by Decision No. \(3839\) on 14/12/1438 AH issued by ZATCA's Board of Directors.](#)
- Articles (2), (42/1) and (43) of [the VAT Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 29/08/2022, Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH as amended, and constituted by Royal Order No. (17218) of 27/3/1442 AH, held its session to consider the case filed by/..., against ZATCA. Since the case met the prescribed legal requirements, it was filed with General Secretariat of the Tax Committees on 03/01/2022.

Facts of this case are summarized as follows: The Plaintiff/ ..., ID No. (...), submitted a statement of claim that included their objection to the Defendant's decision regarding the final assessment for 2Q 2018, and to the imposition of two resulting fines: one for misdeclaration and another for late payment. The Plaintiff requests the cancellation of the Defendant's decision.

Upon presenting the statement of claim to the Defendant, it argued for the validity of its decision based on Article (26.1) of the VAT Law: "1. The Authority may make a Tax assessment of a Taxable Person irrespective of a Tax Return filed by him," Article (64) of the Implementing Regulations of the VAT Law: "1- The Authority may make an assessment of the VAT obligations of a Person in respect of one or more Tax Periods. The Authority shall provide notification to the Taxable Person when it issues such an assessment.," Article (42), which states: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due," and paragraph (2/c) of Article (5) of the Common VAT Agreement of GCC States, which states: "A Supply of Goods includes the following transactions: C) compulsory transfer of ownership of the Goods for Consideration pursuant to a decision of the public authorities or by virtue of any applicable law" Accordingly, it requests the Esteemed Committee to rule on the non-acceptance of the case.

On Monday, 29/08/2022, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH to consider the Case AH. Upon calling parties to the case, Mr. ..., ID No. (...), appeared as the Plaintiff's Attorney by virtue of POA No. (...), and Ms. ..., ID No. (...), appeared as the Defendant's Representative by virtue of authorization letter no. (...) Dated ../../..... issued by the Deputy Governor for Legal Affairs and Compliance. Having asked the Plaintiff's Attorney about claim of his client, he answered as stated in the statement of claim and insisted on the statements included therein.



Having asked both parties to the Case if they desire to add any memorandums, they satisfied with what they previously submitted. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Decision No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) and the relevant laws and regulations.

In form: Given that the Plaintiff aims through their case to cancel the Defendant's decision concerning the imposition of two fines – one for misdeclaration and another for late payment resulting from the final assessment for 2Q 2018 – and based on the VAT Law and its Implementing Regulations, and considering that this dispute falls within the jurisdiction of the Committee for Resolution of Tax Violations and Disputes pursuant to Royal Decree No. (M/113) dated 02/11/1438 AH, and as the case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form.

On merits: Having reviewed the relevant Agreement, Law, and Regulations, and referring to the complete case file and the arguments of both parties, it has become clear to the Department that the Plaintiff is requesting the cancellation of the Defendant's decision regarding the final assessment for 2Q 2019, and the two resulting fines for misdeclaration and late payment.

First: Item (Taxable Local Sales at Basic Rate): It is evident from the case file that the Plaintiff objects to the calculation of a sales amount higher than the actual amount of their sales. The Defendant argued that this amount represents undeclared revenues by the Plaintiff. However, considering that the real estate supply in question resulted from the expropriation of the Plaintiff's private property for public benefit, and this has been proven through the submitted documents, which include a (cheque) for the compensation amount to the Plaintiff dated 23/10/2017, i.e., before the law's entry into force and not based on the date of ownership transfer (because the expropriated property was for the benefit of implementing a project for the (Ministry of Transport)), and based on Article (1) of the Common VAT Agreement of GCC States: "Supplies on which Tax is charged in accordance with the provisions of the Agreement, whether at the standard rate or zero-rate, and for which associated Input Tax is deducted in accordance with the provisions of the Agreement," and Article (2) of the VAT Law: "Tax shall be imposed on the import and supply of Goods and Services in accordance with the provisions stipulated in the Agreement, the Law and the Regulations." and Article (14) of the Implementing Regulations of the VAT Law: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom,". Based on the foregoing, the Department concludes to accept the Plaintiff's case.

Second: Item (Fine for Submission of Incorrect Tax Return): It is evident that the dispute lies in the imposition of a misdeclaration fine for the tax period related to 2Q 2018, and based on Article (42.1) of the VAT Law: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between



the calculated Tax and the Tax due." Given that the Department's decision in item (First) led to the acceptance of the Plaintiff's case, and considering that the fine for misdeclaration resulted from this, and as the resulting occurrence shall take the same effect, the Department concludes to accept the Plaintiff's case.

Third: Late Payment Fine: It is evident that the dispute lies in the imposition of a fine for late payment for the tax period related to 2Q 2018, and based on Article (43) of the VAT Law: "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid." Given that the Department's decision in item (First) led to the acceptance of the Plaintiff's case, and considering that the fine for late payment resulted from this, and as the resulting occurrence shall take the same effect, the Department concludes to accept the Plaintiff's case.

Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Chamber, after unanimous deliberation, decided:

Decision:

First: Accept Plaintiff's case in form.

Second: Accept the case on merits, and cancel the Defendant's decision regarding item sales subject to the standard rate of the final assessment for the disputed tax period.

Third: Accept the Plaintiff's case and cancel the misdeclaration fine and late payment fine.

This decision was rendered in the presence of both parties. The Department has specified (30) thirty days as the deadline for receiving a copy of the decision, and the Department may extend the delivery date for another (30) thirty days as it deems appropriate. Parties to the case may request an appeal within thirty days from the day following the date specified for its receipt. If no objection is filed within this period, the decision shall become final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

Appeal Committee:

Appeal Committee ruled to uphold Department decision.

Determination Committee

The Second Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh

Decision No. (VSR-2022-2018)
Delivered in Case No. (V-86479-2021)

Key words:

Value Added Tax (VAT) – Final Assessment – Local Purchases Subject to Standard Tax Rate – Misdeclaration Fine - Late Payment Fine - VAT - Input Tax - Acceptance of the case in Form.

Abstract

The Plaintiff instituted this case moving to cancel ZATCA's decision regarding the final assessment for 3Q 2020, the fine for misdeclaration, and the fine for late payment. ZATCA responded that it had reassessed the disputed tax period, resulting in the following: Amendment of the Purchases Item for the Tax Period Related to 3Q 2020: ZATCA contacted the Plaintiff and requested additional information supporting the accuracy of what was declared in their return. Due to the Plaintiff's failure to provide any documents supporting the accuracy of the amounts declared in the disputed item, ZATCA excluded them. The Articles stipulate that the Plaintiff shall possess the documents that entitle them to the deduction at the time of submitting their return and shall provide them to ZATCA upon request for examination and assessment purposes. Therefore, ZATCA insists on the validity of its procedure. Regarding the Fines for Misdeclaration and Late Payment for the Tax Period Related to 3Q 2020: As a result of the examination and assessment process for the disputed tax period, a fine for misdeclaration was imposed, and a late payment fine was also imposed for the months following the disputed tax period. The Department has established that the dispute lies in the final assessment (local purchases subject to the standard tax rate) and the imposition of two fines: one for misdeclaration and another for late payment, for the tax period related to 3Q 2020. First: Local Purchases Subject to the standard tax Rate for the Tax Period Related to 3Q 2020: It is clear that the dispute lies in the final assessment notice for the tax period related to 3Q 2020, which pertains to purchases for which the Plaintiff did not provide the required documents. Upon reviewing the documents attached by the Plaintiff, it is clear that they only provided an Excel sheet of sales and purchases and a bank statement from ... Bank, without submitting any invoices to support these statements. Furthermore, the VAT Law and its Implementing Regulations guarantee the Plaintiff the right to deduct input tax in subsequent tax periods upon meeting the conditions for tax deduction. As such, the Department concludes to dismiss the Plaintiff's case. Second: Item (Fine for Submission of Incorrect Tax Return): The Department has established the correctness of the Defendant's procedure in the first item. As the resulting occurrence shall take the same effect, the Department concludes to dismiss the Plaintiff's case. Third: Late Payment Fine: The Department has established the correctness of the Defendant's procedure in the first item. As the resulting occurrence shall take the same effect, the Department concludes to dismiss the Plaintiff's case. Therefore, the Department ruled to: Accept the Case in form and dismiss it on merits.

Instruments:

- Articles (1) and (44/ 1) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)



- Articles (42/1) and (43) of [the Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Article (49/7, 8) of [the Implementing Regulations of the VAT Law issued by Decision No. \(3839\) dated 14/12/1438 AH issued by ZATCA's Board of Directors.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Tuesday, 23/08/2022, Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH as amended, and constituted by Royal Order No. (17218) of 27/03/1442 AH, held its session to consider the case filed by/..., against ZATCA (Defendant). Since the case met the prescribed legal requirements, it was filed with General Secretariat of the Tax Committees on 15/12/2021.

Facts of this case are summarized as follows: The Plaintiff/, ID No.(...), in her capacity as Owner of ... Establishment, CR No. (...), submitted a statement of claim that included her objection to the final assessment for 3Q 2020, the fine for misdeclaration, and the fine for late payment, and requests their cancellation.

Having presented the statement of claim to Defendant, it responded as follows: By reviewing the Plaintiff's statement of claim, it is evident that it is limited to objecting to the amendment of the purchases item, the late payment fine, and the fine for misdeclaration for the tax period related to 3Q 2020. Accordingly, ZATCA summarizes its response as follows: ZATCA has reassessed the disputed tax period based on Article (26.1) of the VAT Law which states: "The Authority may make a Tax assessment of a Taxable Person irrespective of a Tax Return filed by him," And, Article (64.1) of the Implementing Regulations of VAT Law states: "The Authority may make an assessment of the VAT obligations of a Person in respect of one or more Tax Periods. The Authority shall provide notification to the Taxable Person when it issues such an assessment." This resulted in the following: Amendment of the Purchases Item for the Tax Period Related to 3Q 2020: ZATCA contacted the Plaintiff and requested additional information supporting the accuracy of what was declared in their return, based on Article (56.1) of the Implementing Regulations of the VAT Law, which stipulated: "1. All Persons must provide the Authority with any information requested by the Authority for the purposes of establishing whether that Person is complying fully with its Tax obligations." Article (66.7) of the Implementing Regulations of the VAT Law also stipulated: "7. When deemed necessary by the Authority, the Authority may, at any time, request additional records for the purposes of registration, examination and assessment procedures from the Taxable Person, provided that the Authority has a justifiable reason for such request. The Authority shall, where applicable, notify the Taxable Person that it requires such additional records and shall allow a reasonable time for the Taxable Person to submit the additional records." Given the Plaintiff's failure to provide any documents supporting the accuracy of the amounts declared in the disputed item, ZATCA excluded them, in accordance with paragraph (A/1) of Article (48) of the Common VAT Agreement of GCC States, which stipulated: "1. For purposes of exercising the right to deduction, the taxable person must hold the following documents: the Tax Invoice received pursuant to the provisions of this Agreement". Moreover, Article (49.7) of the Implementing Regulations of the VAT Law stipulates: "7. Input Tax may only be deducted where the Taxable Person holds evidence of the amount of Input Tax paid or payable in a form specified in Article forty-eight of the Agreement." The aforementioned articles stipulate that the Plaintiff shall possess the documents that entitle them to the deduction at the time of submitting their return and shall provide them to ZATCA upon request for examination and assessment purposes. Therefore, ZATCA insists on the validity of its procedure. Regarding the fine for misdeclaration and late payment for the tax period related to 3Q 2020: ZATCA informs



the Esteemed Committee that, as a result of the examination and assessment process for the disputed tax period, a fine for misdeclaration was imposed based on Article (42.1) of the VAT Law, which stipulated: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due." A late payment fine was also imposed for the months following the disputed tax period, based on Article (43) of the VAT Law, which stipulated: "Whoever does not pay the tax due within the period specified by the Regulations shall be fined an amount equaling (5%) of the value of unpaid tax, for each month or fraction of month for which the tax was not paid". End of Answer.

On Tuesday, 23/08/2022, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH to consider the Case AH. Upon calling the parties to the case, neither the Plaintiff nor their legally authorized Representative appeared, despite confirmation of their proper notification of the session date. Ms. ..., ID No. (...), appeared as Representative of the Defendant by virtue of authorization letter no. (...) Dated .././..... issued by the Deputy Governor for Legal Affairs and Compliance. As the Department decided to proceed with the case due to its suitability for adjudication in accordance with the provisions of Article (20) of the Tax Dispute and Violation Committee Procedures, the Defendant's Representative was asked about her response, and she referred to the written memorandum of response and insisted on what had been submitted. Consequently, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Decision No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) and the relevant laws and regulations.

In Form: Given that the Plaintiff filed the Case moving for cancelling ZATCA decision regarding the final assessment fine for local sales subject to the standard tax rate for the tax period related to 4Q 2019, the fine for misdeclaration, and the fine for late payment, based on the VAT Law and its Implementing Regulations, and considering that this dispute falls within the jurisdiction of the Tax Violations and Disputes Committee pursuant to Royal Decree No. (M/113) dated 02/11/1438 AH, and since the Case was filed by a party having capacity and within the statutory period, the Department accepts the Case in form.

On merits: Upon the Department's consideration of the case documents and the responses of both parties after granting them sufficient time to present their statements and submissions, it has become clear to the Department that the dispute lies in the final assessment (local purchases subject to the standard tax rate) and the imposition of two fines: one for misdeclaration and another for late payment, for the tax period related to 3Q 2020.

First: Local Purchases Subject to the standard tax Rate for the Tax Period Related to 3Q 2020: It is clear that the dispute lies in the final assessment notice for the tax period related to 3Q 2020, which pertains to purchases for which the Plaintiff did not provide the required documents. Upon reviewing the documents attached by the Plaintiff, it is clear that they only provided an Excel sheet of sales and purchases and a bank statement from ... Bank, without submitting any invoices to support these statements. Furthermore, the VAT Law and its Implementing Regulations guarantee



the Plaintiff the right to deduct input tax in subsequent tax periods upon meeting the conditions for tax deduction, in accordance with Article (49.8) of the Implementing Regulations of the VAT Law, and based on Article (1) of the Common VAT Agreement of GCC States, Article (44.1) of the same Agreement, and Article (49.7) of the Implementing Regulations of the VAT Law. As such, the Department concludes to dismiss the Plaintiff's case.

Second: Item (Fine for Submission of Incorrect Tax Return): It is evident that the dispute lies in the imposition of a misdeclaration fine for the tax period related to 3Q 2020. Given that the correct application of VAT requires submitting the declaration in the correct form, which necessitates the Plaintiff taking all measures to ensure the accurate submission of their declaration, and as the Department has established the correctness of the Defendant's procedure in the first item, and as what is related to it follows its ruling, and based on Article (42.1) of the VAT Law: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due," the Department concludes to dismiss the Plaintiff's case.

Third: Late Payment Fine: It is evident that the dispute lies in the imposition of a fine for late payment for the tax period related to 3Q 2020. Given that the Plaintiff did not pay the tax due within the statutory deadlines, and as the Department has established the correctness of the Defendant's procedure in the first item, and as what is related to it follows its ruling, in accordance with Article (43) of the VAT Law, which states: "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid." Accordingly, the Department dismisses Plaintiff's case.

Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Chamber, after unanimous deliberation, decided:

Decision:

First: Accept Plaintiff's case in form.

Second: Dismiss the Plaintiff's case on merits with regard to the item of local purchases subject to the standard rate of the final assessment for the disputed tax period.

Third: Dismiss the Plaintiff's case regarding the two fines for misdeclaration and late payment for the disputed tax period.

This decision was rendered in the presence of both parties. The Department has specified (30) thirty days as the deadline for receiving a copy of the decision, and the Department may extend the delivery date for another (30) thirty days as it deems appropriate. Parties to the case may request an appeal within thirty days from the day following the date specified for its receipt. If no objection is filed within this period, the decision shall become final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

Appeal Committee:

Appeal Committee ruled to uphold Department decision.



Value-Added Tax

Determination Committee

The Second Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh

Decision No. (VSR-2022-1820)
Delivered in Case No. (V-67056-2021)

Key words:

Value Added Tax (VAT) - Final Assessment - Zero-Rated Revenues - Tax Return - Misdeclaration - Late Payment - Sales Subject to Standard Rate - Social Insurance.

Abstract

The Plaintiff instituted this case moving to cancel ZATCA's decision regarding the final assessment for 2Q 2019, and 1&2Q 2020, and the resulting fines. ZATCA responded that it conducted a reassessment of the tax periods for 2Q 2019 and 1&2Q 2020, and that the Plaintiff failed to submit the necessary documents during the examination period, despite the issuance of a notification requesting additional information as shown in the case attachments for the disputed tax periods, to which the Plaintiff did not respond. Consequently, the Plaintiff was reassessed based on the data available to ZATCA. Item Second: ZATCA's amendment of the local purchases subject to the standard tax rate. During the examination phase, it was noted that the Plaintiff included amounts in the purchases item that were not documented for all the periods in question. ZATCA requested the Taxpayer to provide the necessary invoices proving that these purchases met the conditions for deduction. The Plaintiff did not respond to ZATCA's requests, so ZATCA excluded the purchases declared in the tax returns due to the Plaintiff's failure to provide documents proving their right to the deduction. Item Third: Fine for misdeclaration for the disputed tax periods: As a result of the foregoing, a misdeclaration fine was imposed. Fourth Item Fine for late payment for the disputed tax periods: ZATCA determined its inaccuracy, which necessitates amending the Plaintiff's tax return, resulting in a difference in the tax value. Based on this, a late payment fine was imposed for the months following the due tax period that was not paid within the statutory deadline. Regarding 2Q 2019, the Department established the following: The Plaintiff objects to ZATCA's amendment of the tax return for 2Q 2019, which pertains to the Taxpayer's business activities in trade and wooden decorations. This objection is due to ZATCA's exclusion of sales declared as zero-rated revenue in the tax return and their addition to the item of local sales subject to the standard rate, as the Taxpayer's activity is not related to health services. The Plaintiff also stated that the trade and wooden decoration business was inactive and did not generate any revenue to be declared in the tax return. However, the Plaintiff did not provide supporting documentation to prove the validity of their claim. As for sales for 1Q 2020: It was found that the ownership of the medical center was transferred on January 2, 2020, and the commercial registration was transferred to the new owner, ... However, the Plaintiff did not transfer the employees until six months after the transfer of ownership of the medical center due to the Coronavirus pandemic. The Plaintiff stated that the new owner undertook to pay the employees' salaries until their transfer to the new owner was completed and is responsible for all obligations related to the commercial registration from January 1, 2020, as stipulated in the sixth clause of the sale agreement. This clause states that the second party (the new owner) shall pay social insurance and medical insurance contributions for all employees, and in the event of their



failure to do so, the second party (the new owner) shall be responsible for bearing the fines. As for 2Q 2020: It is evident that the Defendant is requesting to establish resolution of dispute. As for the late payment fine: It is evident that the Plaintiff is requesting cancellation of the fine imposed on them by ZATCA resulting from the final assessment notice for the following tax periods (2Q 2019, and 1&2Q 2020) resulting from the final assessment. Regarding 2Q 2019, and given that the Department decided in the first item to dismiss the case and uphold the Defendant's procedure, and since the late payment fine resulted from this, what is related to it shall follow its ruling. As for the late payment fine for 2Q 2020, and given that the Department decided in the third item to establish the resolution of the dispute, and since the late payment fine resulted from this, the resulting occurrence shall take the same effect. Regarding the fine for misdeclaration: It is evident that the dispute lies in the imposition of the fine for misdeclaration related to (2Q 2019, and 1&2Q 2020), resulting from the final assessment notice for the tax period related to (2Q 2019, and 1&2Q 2020), this is due to the Defendant's addition of undeclared sales in the Plaintiff's tax return and the exclusion of local purchases subject to the standard rate, consequently resulting in tax due that was not paid within its statutory deadline. Therefore, the Department ruled to: Dismiss the Plaintiff's objection regarding the final assessment for 2Q 2019 and the resulting fines, cancel ZATCA's decision regarding the item of sales subject to the standard rate resulting from the final assessment for 1Q 2020, establish resolution of the dispute regarding the final assessment of the item of local sales subject to the standard tax rate and the late payment fine for 2Q 2020, and cancel the fine for misdeclaration for 1&2Q 2020.

Instruments:

- Articles (2), (42/1) and (43) of [VAT Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Article (64/1) of [the Implementing Regulations of the Value Added Tax Law issued by decision of ZATCA Board No. \(3839\) on 14/12/1438 AH.](#)

Facts:

All praise is due to Allah, prayers and peace be upon the last Prophet Mohammad, and be upon his relatives and all his companions; now therefore:

On Monday, 16/05/2022, Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, established pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended, and formed by Royal Decree No. (17218) dated 27/3/1442 AH, held a session to consider the above-mentioned Case. Since the Case fulfilled the established regulatory requirements, it was filed with General Secretariat of Zakat, Tax and Customs Committees on 25/08/2022.

Facts of this case are as follows: the Plaintiff, Mr. ..., ID No., in his capacity as Owner of ... Establishment, Pursuant to C.R. No. (...), submitted a statement of claim that included his objection to the final assessment for 2Q 2019, and 1&2Q 2020, and the resulting fines.

Upon presenting the statement of claim to the Defendant, it responded by arguing for non-acceptance of the case in form, based on Article (3.1) of the Committees' Rules of Procedure.

On Sunday, 20/03/2022, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH to consider the Case. The Plaintiff appeared in person, and Ms. ..., ID No. (...), appeared in her capacity as the representative of the Defendant by virtue of PoA No. (...) dated .../05/1441 AH issued by the Deputy Governor for Legal Affairs. When the Plaintiff was asked about his case, he responded in accordance with what was stated in the statement of claim and adhered to its contents. When the Defendant's Representative was asked about her response, she responded in accordance with the memorandum of reply and adhered to the plea of inadmissibility in form. Upon the Department's



review of the case documents, it requested the Defendant's Representative to submit a memorandum including the substantive defenses to the statement of claim. As such, the Department decided to adjourn hearing of the case to the session on Wednesday, 30/03/2022. The Defendant submitted its memorandum of reply, which included: As per the Department's request for its substantive response regarding the reassessment of the Taxpayer for 2Q 2019 and 1&2Q 2020, ZATCA summarizes its response as follows: The reassessment process conducted by ZATCA for the tax periods of 2Q 2019 and 1&2Q 2020 was carried out in accordance with the provisions of the law and Article (26) of the VAT Law, which states: "ZATCA may make a Tax assessment of a Taxable Person irrespective of a Tax Return filed by him", In addition to Article (64.1) of the Implementing Regulations of the VAT Law stating: "ZATCA may make an assessment of the VAT obligations of a Person in respect of one or more Tax Periods". Given that the Plaintiff failed to provide the necessary documents during the examination period, which relate to ZATCA's reassessment of the disputed and claimed items, in accordance with the ZATCA's right under the provisions of Article (56.1) of the Implementing Regulations of the VAT Law, which states: "1. All Persons must provide the Authority with any information requested by the Authority for the purposes of establishing whether that Person is complying fully with its Tax obligations". Article (66.7) of the same Regulations, states: "7. When deemed necessary by the Authority, the Authority may, at any time, request additional records for the purposes of registration, examination and assessment procedures from the Taxable Person, provided that the Authority has a justifiable reason for such request. The Authority shall, where applicable, notify the Taxable Person that it requires such additional records and shall allow a reasonable time for the Taxable Person to submit the additional records.", through sending a notification requesting additional information as detailed in the case attachments for the disputed tax periods, without any response from the Plaintiff. Consequently, the Plaintiff was reassessed based on the data available to ZATCA, in accordance with ZATCA granted to it under Article (50) of the VAT Law, which states: 'Subject to the provisions of article (twenty-eight) of the Law, the Authority shall be responsible for the administration, examination, assessment and collection of Tax, and shall, in so doing, take such measures as it deems fit,' as detailed below: Item First ZATCA's adjustment of the item for local sales subject to the standard tax rate regarding 2Q 2019. Given that the Taxpayer's reassessment was conducted on CR No. ..., pertaining to the Taxpayer's business activities in trade and wooden decorations, and after examining the return submitted by the Plaintiff, ZATCA subjected these sales to the disputed item, which the taxpayer had declared as zero-rated exempt sales (health/educational services). As the Taxpayer's activity is not related to health or educational services, the declared sales were subjected to sales subject to the standard tax rate, based on the provisions of Article (14) of the Regulations, which states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Supplies Goods and Services made by a Taxable Person in the Kingdom..." As the Plaintiff failed to provide any documents contradicting ZATCA's findings and did not respond to ZATCA's requests, the reassessment was based on the information within the submitted return. Therefore, we hope you will reject the Plaintiff's request regarding this item due to the validity and correctness of ZATCA's procedure. Regarding 1Q 2020: as ZATCA reviewed the tax return and found that the Plaintiff disclosed sales amounting to only SAR 300, and due to the non-receipt of any documents from the Plaintiff, the reassessment was made on an estimated basis based on the data available to ZATCA – social insurance data – where the number of employees for the Taxpayer reached 23 workers with a total of (138,000). This was based on the provisions of Article (14) of the Regulations, which states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Supplies Goods and Services made by a Taxable Person in the Kingdom...." As the Plaintiff failed to provide any documents contradicting ZATCA's findings and did not respond to ZATCA's requests, the reassessment was made according to the information received by ZATCA. Therefore, we hope you will dismiss the Plaintiff's request regarding this item due to the validity



and correctness of ZATCA's procedure. Regarding 2Q 2020: as ZATCA reviewed the Plaintiff's records and found a discrepancy between what the Plaintiff declared and the data available to ZATCA, and due to the Taxpayer's lack of a trial balance and failure to provide any documents within their return, ZATCA made an estimated reassessment based on the data available to ZATCA – social insurance data – by subjecting the sales item to the disputed item, based on the provisions of Article (14) of the Regulations, which states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Supplies Goods and Services made by a Taxable Person in the Kingdom...." As the Plaintiff failed to provide any documents contradicting ZATCA's findings and did not respond to ZATCA's requests, the reassessment was made according to the information received by ZATCA. Therefore, we hope you will dismiss the Plaintiff's request regarding this item due to the validity and correctness of ZATCA's procedure. Item Second: ZATCA's adjustment of the item for local purchases subject to the standard tax rate. During the examination phase, it was noted that the Plaintiff included amounts in the purchases item that were not documented for all the periods in question. Therefore, ZATCA requested the Taxpayer to provide the necessary invoices and documents proving that these purchases met the conditions for deduction under this item. As the Plaintiff did not respond to ZATCA's requests and based on Article (48) of the Common VAT Agreement, which specified the conditions for exercising the right to deduction as follows: "For the purpose of exercising the right to deduction, the taxable person must possess the following documents:" A) the Tax Invoice received pursuant to the provisions of this Agreement". Additionally, Article (49.7) of the Implementing Regulations of the VAT Law stipulates: "Input Tax may only be deducted where the Taxable Person holds evidence of the amount of Input Tax paid or payable in a form specified in Article forty-eight of the Agreement". ZATCA excluded the purchases disclosed in the tax returns due to Plaintiff's failure to provide documents proving their right to the deduction. Item Third: Fine for misdeclaration for the disputed tax periods. As a result of the foregoing, a fine for error in filing the tax return, based on the foregoing was imposed, in accordance with Article (42.1) of the VAT Law, which states: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due". Fourth Item Fine for late payment for the disputed tax periods. After reviewing the Plaintiff's return for the disputed tax period, ZATCA determined its inaccuracy, which necessitated amending the Plaintiff's tax return as previously mentioned, resulting in a difference in the tax value. Therefore, a late payment fine was imposed for the months following the due tax period that was not paid within the statutory deadline under objection, as previously explained, in accordance with Article (43) of the VAT Law, which states: "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid." ZATCA would also like to clarify that the Plaintiff attached to their case a letter regarding the transfer of ownership of CR No. (...), which pertains to the commercial registration for the tax periods under reassessment. End of Answer.

On Wednesday, 30/03/2022, the Department held a hearing session via video conference in accordance with remote litigation procedures pursuant to Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH to consider the case. The Plaintiff was present for himself, and Ms. (...), ID No. (...) appeared in her capacity as the representative of the Defendant by virtue of PoA No. (...) dated .../05/1441 AH issued by the Deputy Governor for Legal Affairs. During this session, the Department asked the Defendant's Representative about the matter for which she was granted a continuance in the previous session. She submitted a memorandum of reply accompanied by a set of documents during the session. Upon presenting it to the Plaintiff, he stated that he had not



reviewed it and requested a continuance to submit his response. Consequently, the Department decided to adjourn the hearing of the case to the session on Tuesday, 19/04/2022.

On Tuesday, 19/04/2022, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. The Plaintiff appeared in person, and Ms. ..., ID No. (...), appeared in her capacity as the representative of the Defendant by virtue of PoA No. (...) dated .../05/1441 AH issued by the Deputy Governor for Legal Affairs. During this session, the Department asked the Plaintiff about the matter for which he was granted a continuance, and he responded in accordance with the memorandum attached to the case file. He also provided the Department with a set of documents that were added to the case file. When the Defendant's Representative was asked about her response to the Plaintiff's memorandum, she stated that she had not reviewed it and requested a continuance to respond. Consequently, the Department instructed the Defendant's Representative to respond within a deadline no later than the end of business on Thursday, 21/04/2022, and the hearing of the case was adjourned to the session on Monday, 16/05/2022.

The Defendant submitted a memorandum of reply that included: "The reassessment process conducted by ZATCA for the tax periods of 2Q 2019 and 1&2Q 2020 was carried out in accordance with the provisions of the law and Article (26) of the VAT Law, which states: "ZATCA may make a Tax assessment of a Taxable Person irrespective of a Tax Return filed by him", In addition to Article (64.1) of the Implementing Regulations of the VAT Law stating: "ZATCA may make an assessment of the VAT obligations of a Person in respect of one or more Tax Periods". Given that the Plaintiff failed to provide the necessary documents during the examination period, which relate to ZATCA's reassessment of the disputed and claimed items, in accordance with the ZATCA's right under the provisions of Article (56.1) of the Implementing Regulations of the VAT Law, which states: '1. All Persons must provide the Authority with any information requested by the Authority for the purposes of establishing whether that Person is complying fully with its Tax obligations,' and Article (66.7) of the same Regulations, which states: '7- the Authority may, at any time, request additional records for the purposes of registration, examination and assessment procedures from the Taxable Person, provided that the Authority has a justifiable reason for such request. The Authority shall, where applicable, notify the Taxable Person that it requires such additional records and shall allow a reasonable time for the Taxable Person to submit the additional records.' This was done through sending a notification requesting additional information - as detailed in the case attachments for the disputed tax periods - without any response from the Plaintiff. Consequently, the Plaintiff was reassessed based on the data available to ZATCA, in accordance with ZATCA granted to it under Article (50) of the VAT Law, which states: 'Subject to the provisions of article (twenty-eight) of the Law, the Authority shall be responsible for the administration, examination, assessment and collection of Tax, and shall, in so doing, take such measures as it deems fit,' as detailed below: Item First ZATCA's adjustment of the item for local sales subject to the standard tax rate regarding 2Q 2019. Given that the Taxpayer's reassessment was conducted on CR No. ..., pertaining to the Taxpayer's business activities in trade and wooden decorations, and after examining the return submitted by the Plaintiff, ZATCA subjected these sales to the disputed item, which the taxpayer had declared as zero-rated exempt sales (health/educational services). As the Taxpayer's activity is not related to health or educational services, the declared sales were subjected to sales subject to the standard tax rate, based on the provisions of Article (14) of the Regulations, which states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Supplies Goods and Services made by a Taxable Person in the Kingdom...." As the Plaintiff failed to provide any documents contradicting ZATCA's findings and did not respond to ZATCA's requests, the reassessment was based on the information within the submitted return. Therefore, we hope you will reject the Plaintiff's request regarding this item due to the validity and correctness of ZATCA's procedure. Regarding 1Q 2020: Upon ZATCA's review of the tax return,



and given that the Plaintiff disclosed sales amounting to only SAR 300, and due to their failure to provide any documents supporting what was stated in their return, the reassessment was made on an estimated basis using the data available to ZATCA that clarifies the Plaintiff's economic activity and that would lead to the value of their supplies, including the working manpower, based on the data available to ZATCA – social insurance data – and this is in accordance with ZATCA's right that obligates all governmental entities and persons to provide ZATCA with the information it requests for tax application purposes, as per Article (51) of the VAT Law, which states: '2- All government entities and Persons must provide the Authority with any information requested by the Authority for Tax purposes,' as well as ZATCA's right to direct and continuous access to any information directly related to the tax that is held by a third party under the provisions of Article (56) of the Implementing Regulations of the VAT Law, which states: 'The Authority's right to obtain information 1. All Persons must provide the Authority with any information requested by the Authority for the purposes of establishing whether that Person is complying fully with its Tax obligations. 2. The Authority, in addition to other rights stipulated in this article -2 may have direct and continuous access to any information directly related to the tax, which is retained by a third party'. As it was found upon reviewing the social insurance data that the number of employees for the taxpayer reached 23 workers with a total of SAR (138,000), therefore, and based on the provisions of Article (14) of the Regulations, which states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Supplies Goods and Services made by a Taxable Person in the Kingdom...." As the Plaintiff failed to provide any documents contradicting ZATCA's findings and did not respond to ZATCA's requests, the reassessment was made according to the information received by ZATCA. Therefore, we hope you will dismiss the Plaintiff's request regarding this item due to the validity and correctness of ZATCA's procedure. Regarding 2Q 2020, and after reviewing the examination status, we kindly request your acceptance of the end of the dispute in this item, provided that the Taxpayer is processed and reassessed regarding this period. Item Second: ZATCA's adjustment of the item for local purchases subject to the standard tax rate. During the examination phase, it was noted that the Plaintiff included amounts in the purchases item that were not documented for all the periods in question. Therefore, ZATCA requested the Taxpayer to provide the necessary invoices and documents proving that these purchases met the conditions for deduction under this item. As the Plaintiff did not respond to ZATCA's requests, and based on Article (48) of the Common VAT Agreement, which specified the conditions for exercising the right to deduction as follows: "For the purpose of exercising the right to deduction, the taxable person must possess the following documents:" A- 'The tax invoice received in accordance with the provisions of this Agreement'" Article 49(7) of the Implementing Regulations of the Value Added Tax Law further states that: "Input Tax may only be deducted where the Taxable Person holds evidence of the amount of Input Tax paid or payable in a form specified in Article forty-eight of the Agreement". ZATCA excluded the purchases disclosed in the tax returns due to Plaintiff's failure to provide documents proving their right to the deduction. Item Third: Fine for misdeclaration for the disputed tax periods. As a result of the foregoing, a fine for error in filing the tax return, based on the foregoing was imposed, in accordance with Article (42.1) of the VAT Law, which states: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due" Fourth Item Fine for late payment for the disputed tax periods. After reviewing the Plaintiff's return for the disputed tax period, ZATCA determined its inaccuracy, which necessitated amending the Plaintiff's tax return as previously mentioned, resulting in a difference in the tax value. Therefore, a late payment fine was imposed for the months following the due tax period that was not paid within the statutory deadline under objection, as previously explained, in accordance with Article (43) of the VAT Law, which states: "Any Person who fails to pay the Tax



due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid." End of Answer.

On Monday, 16/05/2022, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH to consider the Case. The Plaintiff appeared in person, and Ms. ..., ID No. (...), appeared in her capacity as the representative of the Defendant by virtue of PoA No. (...) dated .../05/1441 AH issued by the Deputy Governor for Legal Affairs. During this session, the Department asked the Defendant's Representative about the matter for which she was granted a continuance, and she submitted the third memorandum of response. Upon presenting this to the Plaintiff, he responded that ZATCA had requested the dismissal of the case regarding the sales item for 2Q 2020 but did not accept his objection to the sales item for 1Q 2020, despite the fact that the center was sold according to the submitted documents. When the Department inquired about the reason for ZATCA's cancellation of its issued assessment regarding the sales item for 2Q 2020, the Defendant's Representative replied that the sales assessment was made on an estimated basis and ZATCA's procedure in that regard was found to be incorrect. When asking both litigants if they had any other statements, they responded that they are satisfied with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation in preparation for delivering its decision.

Grounds

Having perused and verified case papers, and having perused Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, and in accordance with the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, and its Implementing Regulations issued by ZATCA Board Resolution No. (3839) dated 14/12/1438 AH as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of the States of the Gulf Cooperation Council (GCC), as well as other relevant laws and regulations.

In form: the Plaintiff filed the Case moving for cancellation of the Defendant's decision regarding the final assessment for 2Q 2019 and 1&2Q 2020 in accordance with the VAT Law and its Implementing Regulations. Given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction Tax Violations and Disputes Committee pursuant to Royal Order No. (M/113) dated 02/11/1438 AH. Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form.

On merits: Having examined the case papers and the submissions made by its parties after having ample time to make their pleadings and replies, the Department found that the dispute relates to the final assessment for 2Q 2019, the sales item and the two fines for misdeclaration and late payment for the periods of 1&2Q 2020, and the resulting fines.

First: Regarding 2Q 2019: It is evident that the Plaintiff objects to the Defendant's amendment of the tax return for 2Q 2019, which pertains to the Taxpayer's business activities in trade and wooden decorations. This objection is due to ZATCA's exclusion of sales declared as zero-rated revenue in the tax return and their addition to the item of local sales subject to the standard rate, as the Taxpayer's activity is not related to health services. The Plaintiff also stated that the trade and wooden decoration business was inactive and did not generate any revenue to be declared in the tax return. As the Plaintiff did not provide supporting documentation to prove the validity of their claim, and based on Article (64.1) of the Implementing Regulations of the VAT Law, which states "ZATCA may make an assessment of the VAT obligations of a Person in respect of one or more Tax Periods." In addition, Article (2) of the VAT Law stipulates: "Tax shall be imposed on



the import and supply of goods and services in accordance with the provisions stipulated in the Agreement, the Law and the Regulations.” Based on the foregoing, the Department decided to dismiss the Plaintiff’s case.

Second: Regarding the sales item for 1Q 2020: It was found that the ownership of the medical center was transferred on January 2, 2020, and the commercial registration was transferred to the new owner, ... However, the Plaintiff did not transfer the employees until six months after the transfer of ownership of the medical center due to the Coronavirus pandemic. The Plaintiff stated that the new owner undertook to pay the employees’ salaries until their transfer to the new owner was completed and is responsible for all obligations related to the commercial registration from January 1, 2020, as stipulated in the sixth clause of the sale agreement. This clause states that the second party (the new owner) shall pay social insurance and medical insurance contributions for all employees, and in the event of their failure to do so, the second party (the new owner) shall be responsible for bearing the fines. As such, the Department concludes by cancelling the Defendant’s decision.

Third: Second quarter of 2020: It is evident that the Defendant requests resolution of the dispute, as stated in its memorandum of reply: “After reviewing the examination status, we kindly request your acceptance of the end of the dispute in this item, provided that the taxpayer is processed and reassessed regarding this period”. Accordingly, the Department decided to establish resolution of the dispute.

Fourth: Late payment fine: Upon review, it is evident that the Plaintiff is requesting cancellation of the fine imposed on them by ZATCA resulting from the final assessment notice for the following tax periods (2Q 2019, and 1&2Q 2020) resulting from the final assessment. Regarding 2Q 2019, and given that the Department decided in the first item to dismiss the case and uphold the Defendant’s procedure, and since the late payment fine resulted from this, the resulting occurrence shall take the same effect, in accordance with the provisions of Article (43) of the VAT Law: “Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid.” Accordingly, the Department dismisses Plaintiff’s objection to this item.

As for the late payment fine for 2Q 2020, and given that the Department decided in the third item to establish the termination of the dispute, and since the late payment fine resulted from this, the resulting occurrence shall take the same effect. Accordingly, the Department decided to establish resolution of the dispute regarding this item.

Fifth Regarding the Misdeclaration Penalty: It is evident that the dispute lies in the imposition of the fine for misdeclaration related to (2Q 2019, and 1&2Q 2020), resulting from the final assessment notice for the tax period related to (2Q 2019, and 1&2Q 2020), this is due to the Defendant’s addition of undeclared sales in the Plaintiff’s tax return and the exclusion of local purchases subject to the standard rate, consequently resulting in tax due that was not paid within its statutory deadline, and based on Article (42.1) of the VAT Law: “Any Person who files an incorrect Tax Return to ZATCA, amends a Tax Return after filing or files any document with ZATCA in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due”. Therefore, the Department decided to dismiss the fine for misdeclaration for 1&2Q 2020.

Decision:

First: Accept Plaintiff’s case in form.

Second: Dismiss the Plaintiff’s objection on merits with regard to the final assessment for 2Q 2019 and the resulting fines.

Third: Cancel the Defendant’s decision regarding the item of sales subject to the standard rate resulting from the final assessment for 1Q 2020.



Fourth: Establish resolution of the dispute with regard to the final assessment of the item of local sales subject to the standard tax rate and the late payment fine for 2Q 2020.

Fifth Cancel the misdeclaration fine for 1&2Q 2020.

This decision was issued in the presence of both parties, and the Department set a period of thirty (30) days for the receipt of a copy of the decision. The Department may extend the deadline for additional thirty (30) days as it deems appropriate. Either party to the case may appeal against the decision within 30 days from the day following the date set for receipt of the decision, whereafter, the decision will be final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

Appeal Committee:

Appeal Committee ruled to uphold Department decision.



Value-Added Tax

Determination Committee

The Second Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh

Decision No. (VSR-2022-1787)
Delivered in Case No. (V-65161-2021)

Key words:

Value Added Tax (VAT) - Final Assessment - Misdeclaration Fine - Late Payment fine - Final Assessment Notice - Asset Sales - SADAD Payment System Invoice.

Abstract

The Plaintiff instituted this case moving to cancel ZATCA's decision regarding the final assessment for November 2018, the fine for misdeclaration, and the late payment fine. The Plaintiff based its objection on a technical issue during the initial filing of the case, which necessitated filing it under the name of the CEO instead of the Company name. ZATCA responded by arguing for non-acceptance of the case. The Department has established that the Plaintiff objects to the 5% rated sales, the fine for misdeclaration, and the late payment fine for the final assessment of November 2018. First: Regarding the 5% rated sales amounting to SAR (210), upon reviewing the documents, we find that the "Final Assessment Notice" indicates they are scrap sales. The Defendant, through its memorandum of reply, stated that they are asset sales amounting to SAR 210 and were subjected to the sales item as taxable revenue based on Article (14) of the Regulations. The Plaintiff did not provide documents supporting otherwise but rather confirmed the validity of the decision. However, its objection lies in the non-reflection of a SADAD invoice for the correct tax amount resulting from the assessment. Despite the non-submission of a "SADAD Payment System Invoice," the Plaintiff argued that the tax due according to the invoice is SAR 14,554.50, while the "Final Assessment Notice" shows the tax payable as SAR 832,454.05. Both amounts are greater than the amount subjected to the sales item and the tax resulting from its reassessment, where SAR 210 were subjected to a tax of SAR 10.50. The Defendant merely argued that "the difference between the tax due stated in the 'Assessment Notice' and the 'SADAD Invoice' is due to a credit balance for the Plaintiff that was utilized in different periods, therefore ZATCA made adjustments between the balances." However, the credit balance is the Plaintiff's asset, meaning it should reduce the tax debt, not increase it. The Defendant has the right to settle the Plaintiff's credit balance with the tax debt resulting from the "reassessment" before issuing the invoice, which, according to the parties' arguments, is what happened. However, the assessment notice resulted in a tax debt greater than what was due and did not reflect the debt related only to the quarter resulting from the reassessment. Based on the foregoing, the Department decides to amend the Defendant's decision to reflect a "Final Assessment Notice" for the tax related to the return of the disputed period resulting from the reassessment, which is a tax due "payable" in the amount of SAR 10.50, and that the SADAD invoice reflects the amount due after settling the credit balance from it. Second: Regarding the Misdeclaration Penalty: Upon review, we find that the fine resulted from the Defendant's amendment of the Plaintiff's return for the disputed period. After reviewing the submitted documents, and given our opinion that the first item has led to the amendment of the Defendant's decision, and considering that the assessment resulted in the calculation of tax at an amount greater



than what is legally due according to what has been stated, and since the fine for misdeclaration resulted from this, what is related to it shall be affected by its ruling. Third: Late payment fine: Upon review, it became clear that the fine was due to the non-payment of the tax due within the statutory period, which resulted from the Defendant's amendment of the Plaintiff's return. Considering that the amendment (assessment) resulted in the calculation of tax at an amount greater than what was due, and after reviewing the submitted documents, and considering that the amendment (assessment) resulted in the calculation of tax at an amount greater than what is legally due according to what has been stated, and since the first item has led to the amendment of the Defendant's decision, and given that the non-payment of the difference in the tax due resulted from this, what is related to it shall be affected by its ruling. Therefore, the Department ruled to: Accept the Plaintiff's case, amend the Defendant's decision regarding the "Invoice Issuance Notice" document to make the item "(Amendment of the Return after Examination)" with a tax value of SAR 10.50 resulting from the addition of sales amounting to SAR 210, and amend the Defendant's decision regarding the two fines for misdeclaration and late payment in accordance with the Department's conclusion in the second item. – This decision shall be deemed final and enforceable according to Article (42) of the Tax Dispute and Violation Committee Procedures.

Instruments:

- Articles (27/1), (42/1), and (43) of [VAT Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (14) and (59/1) of [Implementing Regulations of VAT Law issued by Decision No. \(3839\) dated 14/12/1438 AH issued by ZATCA's Board of Directors.](#)

Facts:

All praise is due to Allah, prayers and peace be upon the last Prophet Mohammad, and be upon his relatives and all his companions; now therefore:

On Thursday, 26/05/2022, Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, established pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended, and formed by Royal Decree No. (17218) dated 27/3/1442 AH, held a session to consider the above-mentioned Case. Since the Case fulfilled the established regulatory requirements, it was filed with General Secretariat of Zakat, Tax and Customs Committees on 15/08/2021.

Facts of the case are summarized as follows: Mr., ID No. (...), in his capacity as the Plaintiff Company's Attorney by virtue of POA No. (...), under CR No. (...) submitted a statement of claim that included his objection to the final assessment for November 2018, the fine misdeclaration, and late payment fines, requesting the cancellation of the decision.

Upon presenting the statement of claim to the Defendant, it responded by arguing for non-acceptance of the case, based on Article (26) and Article (42.1) of the VAT Law.

On Thursday, 26/05/2022, the Department held a hearing session via video conference in accordance with remote litigation procedures pursuant to Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH to consider the case. Mr. (...), ID No. (...) was present In his capacity as the Plaintiff's Attorney by virtue of POA attached to the case file. Also, was present Ms. ..., ID No. (...), appeared in her capacity as the representative of the Defendant by virtue of PoA No. (...) dated .../05/1441 AH issued by the Deputy Governor for Legal Affairs. During this session, after reviewing the case documents, the Department noted that the Plaintiff is ..., an air conditioning company, CR No. (...). The Plaintiff's Attorney explained that there was a technical issue during the initial filing of the case, which necessitated filing it under the name of the CEO instead of the Company name. Upon reviewing the case attachments, the Department established that the case was filed by a party with standing. Accordingly, the Department asked the Plaintiff's Attorney about his client's case,



and he responded in accordance with what was stated in the statement submitted to the General Secretariat of the Zakat, Tax and Customs Committees and adhered to its contents. When the Defendant's Representative was asked about her response, she stated her adherence to what was mentioned in the memorandum of reply. During this session, the Department requested the Plaintiff's Attorney to present the disputed invoice notice, which he displayed to the Department during the session. When both parties were asked if they wished to add anything further, they decided to suffice with what had been previously submitted. Accordingly, the Department decided to adjourn session for deliberation before issuing decision.

Grounds

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Decision No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) and the relevant laws and regulations.

In Form: Since Plaintiff filed the Case moving for cancelling the Defendant's decision regarding the final assessment for November 2018 in accordance with the VAT Law and its Implementing Regulations. Given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction Tax Violations and Disputes Committee pursuant to Royal Order No. (M/113) dated 02/11/1438 AH. Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form.

On merits: After reviewing the relevant Agreement, Law, and Regulations, and referring to the complete case file and the arguments of the parties, it has become clear to the Department that the Plaintiff objects to the 5% rated sales, the misdeclaration, and late payment fine for the final assessment of November 2018.

First: Regarding the 5% taxable sales amounting to (210) Riyals: Upon reviewing the documents, we find that the "Final Assessment Notice" indicates they are scrap sales. The Defendant, through its memorandum of reply, stated that they are asset sales amounting to SAR 210 and were subjected to the sales item as taxable revenue based on Article (14) of the Regulations. The Plaintiff did not provide documents supporting otherwise but rather confirmed the validity of the decision. However, its objection lies in the non-reflection of a SADAD invoice for the correct tax amount resulting from the assessment. Despite the non-submission of a "SADAD Payment System Invoice," the Plaintiff argued that the tax due according to the invoice is SAR 14,554.50, while the "Final Assessment Notice" shows the tax payable as SAR 832,454.05. Both amounts are greater than the amount subjected to the sales item and the tax resulting from its reassessment, where SAR 210 were subjected to a tax of SAR 10.50. The Defendant merely argued that "the difference between the tax due stated in the 'Assessment Notice' and the 'SADAD Invoice' is due to a credit balance for the Plaintiff that was utilized in different periods, therefore ZATCA made adjustments between the balances." However, the credit balance is the Plaintiff's asset, meaning it should reduce the tax debt, not increase it. The Defendant has the right to settle the Plaintiff's credit balance with the tax debt resulting from the "reassessment" before issuing the invoice, which, according to the parties' arguments, is what happened. However, the assessment notice resulted in a tax debt greater than what was due and did not reflect the debt related only to the quarter resulting from the reassessment. Based on the foregoing, the Department decides to amend the Defendant's decision to reflect a "Final Assessment Notice" for the tax related to the return of the disputed period resulting from the reassessment, which is a tax due "payable" in the amount of SAR 10.50, and that the SADAD invoice reflects the amount due after settling the credit balance from it. Accordingly, the Department decides to accept the Plaintiff's case.



Second: Regarding the Misdeclaration Penalty: Upon review, we find that the fine resulted from the Defendant's amendment of the Plaintiff's return for the disputed period. Article (42.1) of the VAT Law states: "Any Person who files an incorrect Tax Return to ZATCA, amends a Tax Return after filing or files any document with ZATCA in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due." After reviewing the submitted documents, and given our opinion in the first item which led to the amendment of the Defendant's decision, and considering that the assessment resulted in the calculation of tax at an amount greater than what is legally due according to what has been stated, and since the fine for misdeclaration resulted from this, what is related to it shall be affected by its ruling, which necessitates amending the Defendant's decision in accordance with Article (42.1) of the VAT Law.

Third: Late payment fine: Upon review, it became clear that the fine was due to non-payment of the tax due within the statutory period, which resulted from the Defendant's amendment of the Plaintiff's return, and considering that the amendment (assessment) resulted in the calculation of tax at an amount greater than what was due. Article (27.1) of the VAT Law, related to tax payment, states: "The Regulations shall determine the time periods, terms and conditions for the payment of Net Tax due by a Taxable Person" Article (59.1) of the Implementing Regulations of VAT Law, related to tax payment, states: "Payment of Tax due by a Taxable Person in respect of a Tax Period must be made at the latest by the last day of the month following the end of that Tax Period." Article (43) of the VAT Law also provides that: "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid." After reviewing the submitted documents, and considering that the amendment (assessment) resulted in the calculation of tax at an amount greater than what is legally due according to what has been stated, and since our opinion in the first item has led to the amendment of the Defendant's decision, and given that the non-payment of the difference in the tax due resulted from this, what is related to it is affected by its ruling, which necessitates amending the Defendant's decision based on Article (43) of the VAT Law.

Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Department, after unanimous deliberation, decided:

Decision:

First: Accept Plaintiff's case in form.

Second: Accept the Case filed by the Plaintiff, and amend the Defendant's decision regarding the document "Invoice Issuance Notice" number (...) dated 18/04/2021 to make the item "(Amendment of the Return after Examination)" with a tax value of SAR 10.50 resulting from the addition of sales amounting to SAR 210 Riyals.

Third: Amend the Defendant's decision regarding the two fines for misdeclaration and late payment in accordance with the Department's conclusion in the second item.

This Decision was issued in the presence of both parties and shall be final and enforceable, in accordance with Article (42) of Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

Judgment has become final because disputed amount is less than SAR 50,000 (fifty thousand riyals) pursuant to Article (33.1) of Tax Dispute and Violation Committee Procedures.



Value-Added Tax

Determination Committee

The Second Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh

Decision No. (VSR-2022-1817)
Delivered in Case No. (V-63622-2021)

Key words:

Value Added Tax (VAT) - Field Detection fine - Invoice Requirements - Tax Payable - Import - Supply of Goods.

Abstract

The Plaintiff instituted this case moving to cancel ZATCA's decision regarding the imposition of a field detection fine amounting to SAR (10,000), due to a violation of the provisions of the Law or the Regulations (failure to include the tax payable in the invoice or a statement that the consideration includes the tax, as detailed in the inspection report). ZATCA responded that its Representatives visited the Plaintiff's site and inspected the simplified invoices it provides during the field campaign to ensure the proper application of the laws and regulations. After the inspection, it was found that they violated the requirements for simplified invoices, as the invoices did not include the value of the tax payable at the legally prescribed rate (attached). 2- After verifying the Plaintiff's violation of the provisions of the VAT Law and its Implementing Regulations as detailed above, ZATCA imposed a fine of SAR (10,000) on the Plaintiff. The Department has established that the dispute lies in the imposition of a field detection fine amounting to SAR (10,000), due to a violation of the provisions of the Law or the Regulations (failure to include the tax payable in the invoice or a statement that the consideration includes the tax, as detailed in the inspection report). The Plaintiff requests the cancellation of the imposed fine, arguing that the establishment did not violate the provisions of the Agreement and the Law because it operates in the sale of medical and sunglasses subject to zero tax. The Plaintiff argues that the certificate was not presented; however, the Plaintiff's argument that the appearance of the tax identification number on the invoice serves as a substitute for presenting the certificate is considered an unproductive argument in the case and is not considered valid due to the absence of supporting legal justifications for this argument. By referring to the invoices attached to ZATCA's memorandum of reply– invoice number (66054) dated (29/07/2019) amounting to SAR (1,115), which is the subject of the inspection – it is evident that it is not a simplified invoice as its value exceeds SAR (1000). It is also clear from the invoice attached by the Defendant that the invoice does not include the value of the tax due, the applied tax rate, or a statement of the tax treatment applicable to the supply. The Plaintiff did not provide other invoices issued by it that demonstrate its compliance with the requirements of a tax invoice, which would support its argument that the invoice attached by the Defendant should not be taken as evidence of its procedures. Furthermore, the Plaintiff did not provide evidence that the person who signed the inspection report, dated 01/08/20019 according to its claim, was not affiliated with it, thus proving the facts stated therein. This demonstrates the Plaintiff's non-compliance with the provisions of the law and Regulations articles referred to above. Therefore, the Department deems it appropriate to uphold the Defendant's imposition of a fine for violating the provisions of the Law or the



Regulations, amounting to SAR (10,000). Therefore, the Department ruled to: Dismiss the case regarding the disputed field detection fine on merits.

Instruments:

- Articles (2/2), (23/1, 3), (45), and (53/7) of [VAT Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#).
- Articles (8/8) (53/5/T, Y, K/7, 8) of [the Implementing Regulations of the VAT Law issued by Decision No. \(3839\) dated 14/12/1438 AH issued by ZATC's Board](#).

Facts:

All praise is due to Allah, prayers and peace be upon the last Prophet Mohammad, and be upon his relatives and all his companions; now therefore:

On Sunday, 06/11/1443 AH, corresponding to 05/06/2022, Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, established pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH as amended, and formed by Royal Decree No. (17218) dated 27/3/1442 AH, held a session to consider the above-mentioned Case. Since the Case fulfilled the established regulatory requirements, it was filed with General Secretariat of Zakat, Tax and Customs Committees on 07/08/2021.

Facts of this case are summed up as follows: Mr. ..., ID No. (...), in his capacity as Manager of ... Trading Corporation, registered under C.R. No. (...), submitted a statement of claim that included his objection to ZATCA's decision regarding the imposition of a field detection fine amounting to SAR (10,000), due to a violation of the provisions of the Law or the Regulations (failure to include the tax payable in the invoice or a statement that the consideration includes the tax, as detailed in the inspection report), and requests cancellation of the Defendant's decision.

Having presented the statement of claim to Defendant, it answered as follows: "First: On Merits: "ZATCA's Representatives visited the Plaintiff's site and examined the simplified invoices provided by the Plaintiff during the field detection to verify proper application of the provision of the VAT Law and its Implementing Regulations. After the inspection, it was found that they violated the provisions of Article (25.1) of the Common VAT Agreement of GCC States, which states: "1- VAT shall be applied at a standard rate of 5% on the value of the supply or import, unless an exemption or a zero rate is provided for the same supply in this Agreement". Additionally, Article (2) of the VAT Law stipulates that: "Tax shall be imposed on the import and supply of Goods and Services in accordance with the provisions stipulated in the Agreement, the Law and the Regulations". Furthermore, the simplified invoice requirements outlined in Article (53.8) of the Implementing Regulations of the VAT Law state that: "A simplified tax invoice must include the following details:" e) The Tax payable or a statement that the Consideration is inclusive of Tax in respect of the Supply of the Goods or services". As the invoices did not include the VAT amount due at the statutory rate (attached). 2- After verifying that the Plaintiff had violated the provisions of the VAT Law and its Implementing Regulations, as outlined above, ZATCA imposed a fine of SAR 10,000 on the Plaintiff based on Article (45.3) of the VAT Law. Second: Requests: In view of the foregoing, ZATCA requests the Department to rule to dismiss the case for the reasons explained". End of Reply.

On Sunday, 06/11/1443 AH, corresponding To 05/06/2022, the Department held a session via video conference in accordance with remote litigation procedures pursuant to Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to the Case, Mr. ..., Civil Registry No. (...) appeared As the Legal Representative of the Plaintiff Company, and Ms. ..., Civil Registry No. (...), appeared in her capacity as the Defendant's (ZATCA) Representative by virtue of Authorization No. (.....) dated .../06/1442 AH issued by the Deputy Governor for Legal Affairs. During this session, the Department asked the legal Representative of the Company about the Plaintiff's case, and he



responded in accordance with what was stated in the statement of claim and adhered to its contents. Upon presenting this to the Defendant's Representative, she responded in accordance with what was stated in the memorandum of reply and adhered to its contents. When both parties were asked if they wished to add anything further, they decided to suffice with what had been previously submitted. As such, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

After reviewing case papers, careful examination thereof, and in light of Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued pursuant to the Minister of Finance Decision No. (1535) of 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 H, and Common VAT Agreement of GCC States, as well as related laws and regulations.

In form: Since the Case was filed by a person with capacity. Therefore, the Department accepts the Case in form.

On merits, upon reviewing the case documents and the responses of both parties after granting them sufficient time to present their arguments and evidence, it has become clear to the Department that the dispute lies in the imposition of a field detection fine amounting to SAR (10,000), due to a violation of the provisions of the Law or the Regulations (failure to include the tax payable in the invoice or a statement that the consideration includes the tax, as detailed in the inspection report). Article (2.2) of the VAT Law, which pertains to tax invoices, states: "The tax shall be applied at a standard rate of (5%) on the value of supply or import, unless a provision for exemption or a zero rate applies, based on the provisions of the Law and its Regulations– to the specific supply." In addition, Article (23.1) of the VAT Law, related to tax invoices, stipulates: "The Regulations shall determine the following: 1- The contents and format of tax invoices and the deadlines for their issuance". In addition, Article (23.3) of the VAT Law stipulates: "The Regulations shall determine the following: The terms and conditions for exempting a Taxable Person from the issuance of Tax Invoices for Exempt Supplies". Article (8.8) of the Implementing Regulations of the VAT Law, related to tax invoices, states: "A taxable resident person registered with the Authority is required to display the registration certificate at their main place of business and branches, ensuring it is visible to the public." Additionally, Article (53.5) of the Implementing Regulations of the VAT Law, which relates to tax invoices, states: "A Tax Invoice must include the following details in Arabic, in addition to any other language also shown on the Tax Invoice as a translation: h) the taxable amount per rate or exemption, the unit price exclusive of VAT and any discounts or rebates if they are not included in the unit prices, i) the rate of Tax applied, j) the amount of Tax payable, shown in SAR, k) in the case where Tax is not charged at the basic rate, a narration explaining the Tax treatment applied to the supply," Additionally, Article (53.7) of the Implementing Regulations of the VAT Law, which relates to tax invoices, states: "A simplified tax invoice may be issued for the supply of goods or services the value of which is less than one thousand (1,000) SAR. A simplified tax invoice may not be issued with respect to an intra-Community supply or the export of goods." Additionally, Article (45) of the VAT Law states: "A fine not exceeding fifty thousand (50,000) riyals shall be imposed on any Person that: 3. Violates any other provision of the Law or the Regulations." The Plaintiff requests cancellation of the imposed fine, arguing that the establishment did not violate the provisions of the Agreement and the Law because it operates in the sale of medical and sunglasses subject to zero tax. The Plaintiff argues that the certificate was not presented according to Article (8.8) of the Regulations. The Plaintiff's argument that the appearance of the tax identification number on the invoice serves as



a substitute for presenting the certificate is considered an unproductive argument in the case and is not considered valid due to the absence of supporting legal justifications for this argument. By referring to the invoices attached to ZATCA's memorandum of reply – invoice number (66054) dated (29/07/2019) amounting to SAR (1,115), which is the subject of the inspection – it is evident that it is not a simplified invoice to which Article (53.8) of the Regulations applies, as its value exceeds SAR (1000), according to Article (53.7) of the Regulations, and Article (53.5) of the Regulations applies to it. It is also clear from the invoice attached by the Defendant that the invoice does not include the value of the tax due, the applied tax rate, or a statement of the tax treatment applicable to the supply, according to paragraphs 5/t, 5/y, and 5/k of Article (53) of the Regulations. The Plaintiff did not provide other invoices issued by them that demonstrate its compliance with the requirements of a tax invoice, which would support its argument that the invoice attached by the Defendant should not be taken as evidence of its procedures. Furthermore, the Plaintiff did not provide evidence that the person who signed the detection report, dated 01/08/20019 according to its claim, was not affiliated with it, thus proving the facts stated therein. This demonstrates the Plaintiff's non-compliance with the provisions of the Law and Regulations provisions referred to above. Therefore, the Department deems it appropriate to uphold the Defendant's imposition of a fine for violating the provisions of the Law or the Regulations, amounting to SAR (10,000).

Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Chamber, after unanimous deliberation, decided:

Decision:

First: To Accept case in form.

Second: Dismiss the case regarding the disputed field detection fine on merits.

This decision was delivered in presence of Parties as a final and enforceable under Tax Dispute and Violation Committee Procedures. Date of uploading decision to electronic system of General Secretariat of Zakat, Tax and Customs Committees shall be deemed the date of decision delivery.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

The Second Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh

Decision No. (VSR-2022-2008)
Delivered in Case No. (V-83119-2021)

Key words:

Value Added Tax (VAT) – Late Registration Fine – Regulatory Requirements - Cancellation of Defendant's Decision.

Abstract

The Plaintiff instituted this case moving to cancel ZATCA's decision regarding the imposition of a late registration fine amounting to SAR (10,000). ZATCA responded that the original state of a decision is correctness and validity, and whoever claims otherwise must prove the contrary, in accordance with the principle of discretionary authority vested in the administrative body. This authority empowers it to adopt the method through which decisions related to the establishment of taxpayers' regulatory statuses are made, while ZATCA's discretionary power remains in studying the taxpayer's situation and conducting examination and verification of any request to ensure the accuracy of what was submitted. Accordingly, ZATCA allowed every taxable person to complete the registration process voluntarily and gave them the choice of submitting the necessary documents or not, sufficing with a pledge form that included their confirmation of the accuracy of the information entered by them. Consequently, the taxpayer voluntarily registered according to these regulations and chose the turnover limit related to their establishment, and the fine was issued based on their own declared inputs, and the fine is only imposed based on that. All regulatory requirements were published with sufficient time before the implementation, and all awareness procedures were taken through various electronic means, and this was made available through the unified contact center for all taxpayers for the correct application of the law and its regulations. Based on the foregoing, the late registration fine was imposed. Based on the above, ZATCA requests the Esteemed Committee to rule to dismiss the case for the reasons explained above. The Department has established that the dispute lies in the imposition of a late registration fine amounting to SAR (10,000). The Plaintiff denies that its revenues exceeded the mandatory registration threshold because it is a new establishment. Given that the Defendant – according to its statement – imposed the fine based on a declaration from the Plaintiff during their registration with it, without the Defendant providing data proving that the Plaintiff exceeded the registration threshold that would necessitate the imposition of the fine, and considering that the administrative decisions issued by ZATCA are subject to judicial review, as an administrative decision that lacks one of its validity pillars is flawed and its consequence is its judicial cancellation. It is jurisprudentially established that an administrative decision must be based on a reason that justifies its issuance, and the reason is the material fact that precedes the decision and leads to its adoption. If the reason did not exist before the issuance of the decision or is undefined and unclear, then the decision is tainted with the defect of lack of cause, which necessitates its cancellation. As the Defendant has not proven that the Plaintiff exceeded the mandatory registration threshold, the Department decided to accept the Plaintiff's case and cancel the Defendant's decision. The Department ruled to Cancel the Defendant's decision regarding the disputed late registration fine.



Instruments:

- Article (50.2) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Article (68/1) of [the Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Article (67.B) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH, as amended.](#)
- Article (3) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) on 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday, 28/12/1443 AH corresponding to 27/07/2022, Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH and amendments thereof, and constituted by Royal Order No. (17218) of 27/03/1442 AH, held its session to consider the case filed by/..... against ZATCA (Defendant). Since the case met the prescribed legal requirements, it was filed with General Secretariat of the Tax Committees on 21/11/2021.

Facts of this case are summed up in that Mr....., holder of Iqama ID No., in his capacity as Legal Representative of Plaintiff (... Company), C.R. No. (...), filed a statement of claim objecting to ZATCA's decision to impose a late registration fine amounting to SAR 10,000 and requested the cancellation of the Defendant's decision.

Having presented the statement of claim to Defendant, it answered as follows: "The decision is presumed to be valid and sound, and whoever claims otherwise shall provide proof supporting his claims. 1. Paragraph (2) of Article (50) of the Common VAT Agreement of the States of the Gulf Cooperation Council states that "The Mandatory Registration Threshold shall be SAR 375,000" - . In accordance with the principle of discretionary authority granted to the administrative body, which allows it to determine the approach for making decisions regarding the legal status of taxpayers, ZATCA has adopted, through its regulations, a principle of voluntary compliance for all processes, including registration, filing returns, correcting errors, and notifying ZATCA of any changes,... Etc. However, ZATCA retains discretionary powers to review taxpayers' status when necessary and to conduct audits and verifications of any submitted request to ensure its accuracy and validity. Accordingly, ZATCA allowed taxable persons to complete registration voluntarily, giving them the option to submit supporting documents or rely on a declaration confirming the accuracy of the provided information. Consequently, the Taxpayer voluntarily registered and selected the supply threshold applicable to their business, and the fine was issued based on the Taxpayer's own provided inputs. fines are imposed solely on this basis. - All legal requirements were published well in advance of implementation, and various awareness measures were undertaken through electronic channels. Additionally, a unified call center was made available to all taxpayers to ensure proper compliance with the VAT law and its regulations. Based on the above, a late registration fine was imposed pursuant to Article (41) of the VAT Law, which states, "Any Person who has not applied for registration within the period specified in the Regulations shall be fined ten thousand (10,000) riyals". Second: Requests: In view of the foregoing, ZATCA requests the Esteemed Committee to rule dismissal of the Case for the above-mentioned reasons". End of Answer.

On Wednesday, 28/12/1443 AH, corresponding to 27/07/2022, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article (15.2) of



Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling parties to the case, Mr. ..., ID No. (...), appeared under valid POA No. (...) Also, Ms. ..., ID No. (...), appeared in her capacity as the representative of the Defendant, "Zakat, Tax and Customs Authority (ZATCA)," by virtue of the PoA No. (...) Dated .././..... issued by the Deputy Governor for Legal Affairs. When the Plaintiff's Attorney was asked about his client's claim, he affirmed the contents of the statement of claim and insisted on its arguments. When the Defendant's Representative was asked for her response, she affirmed the contents of the defense memorandum and insisted on its arguments. When both parties were asked if they wished to add anything further, they declared that they were satisfied with their previous submissions in this case. Accordingly, the Department decided to adjourn the session for deliberation in preparation for issuing the final decision.

Grounds

After reviewing case papers, careful examination thereof, and in light of Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued pursuant to the Minister of Finance Decision No. (1535) of 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 H, and Common VAT Agreement of GCC States, as well as related laws and regulations:

In form: Since the Case was filed by a person with capacity. Therefore, the Department accepts the Case in form.

On merits: the Department, having taken cognizance of documents included in Case file and answer of each party after being granted sufficient time to provide their submissions, found that the dispute involves imposing late registration fine amounting to SAR 10,000. Article (50.2) of the Common VAT Agreement of the GCC States stipulates that 'The mandatory registration threshold shall be 375,000 Saudi Riyals.' Article (3) of the Implementing Regulations of the VAT Law also states: "For registration purposes, every Resident Person in the Kingdom who is not registered by the Authority must at the end of each month calculate the value of his Supplies made in the Kingdom within the twelve months then ended, in accordance with the requirements set out in the Agreement. In cases where this value exceeds the Mandatory Registration Threshold detailed in the Agreement, the Person must apply to the Authority to register within thirty (30) days of the end of that month pursuant to Article eight of these Regulations." Given that the Plaintiff denies that its revenues exceeded the mandatory registration threshold because it is a new establishment, and considering that the Defendant – according to its statement – imposed the fine based on a declaration from the Plaintiff during their registration with it, without the Defendant providing data proving that the Plaintiff exceeded the registration threshold that would necessitate the imposition of the fine, and considering that the administrative decisions issued by ZATCA are subject to judicial review in accordance with Article (68.1) of the Implementing Regulations of the VAT Law and paragraph (b) of Article (67) of the Income Tax Law amended by Royal Decree No. (M/113) to examine them from a regulatory standpoint and the extent of their conformity with legality, as an administrative decision that lacks one of its validity pillars is deemed flawed and its consequence is its judicial cancellation. Furthermore, it is jurisprudentially established that an administrative decision must be based on a reason that justifies its issuance, and the reason is the material fact that precedes the decision and leads to its adoption. If this reason did not exist before the issuance of the decision or is undefined and unclear, without ambiguity or vagueness, then the decision is tainted with the defect of lack of cause, which necessitates its cancellation. As the Defendant has not proven that the Plaintiff exceeded the mandatory registration threshold, the Department concludes to accept the Plaintiff's case, and cancel the Defendant's decision.



Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Chamber, after unanimous deliberation, decided:

Decision:

First: To Accept case in form.

Second: Accept the Case on merits, and cancel the Defendant's decision regarding the disputed late registration fine.

This decision was delivered in presence of Parties as a final and enforceable under Tax Dispute and Violation Committee Procedures. Date of uploading decision to electronic system of General Secretariat of Zakat, Tax and Customs Committees shall be deemed the date of decision delivery.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

The Second Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh

Decision No. (VSR-2022-1777)
Delivered in Case No. (V-73266-2021)

Key words:

Value Added Tax (VAT) – Late Registration Fine – Mandatory Registration Threshold – Dismissal of Plaintiff's Case on Merits.

Abstract

The Plaintiff instituted this case moving to cancel ZATCA's decision regarding the imposition of a late registration fine. ZATCA responded by arguing for non-acceptance of the case. The Department has established that the dispute lies in the imposition of a late registration fine amounting to SAR (10,000). The Defendant based its decision to impose the late registration fine, issued under number (...) Dated .././..... on the Plaintiff's exceeding the mandatory registration threshold stipulated by the regulations, based on data issued by the Saudi Central Bank. Given that the Plaintiff failed to attend the session despite being duly notified of the session date, thus forfeiting their right to plead their case. Therefore, the Department ruled to: Dismiss the Plaintiff's case regarding the late registration fine on merits.

Instruments:

- Article (2/50) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Article (3) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) on 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 23/05/2022, Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH as amended, and constituted by Royal Order No. (17218) of 27/3/1442 AH, held its session to consider the case filed by/....., against ZATCA. Since the case met the prescribed legal requirements, it was filed with General Secretariat of the Tax Committees on 03/09/2021.

Facts of this case are as follows: the Plaintiff, Mr. ..., ID No., in his capacity as Owner of ... Company, Pursuant to C.R. No. (.....), submitted a statement of claim that included his objection to the imposition of a late registration fine.

Upon presenting the statement of claim to the Defendant, it responded by arguing for non-acceptance of the case, based on Article (50.2) of the Common VAT Agreement of GCC States, Article (41) of the VAT Law, and Articles (6) and (3) of the Implementing Regulations of the VAT Law.



On Monday, 23/05/2022, the session convened via video conference pursuant to remote litigation procedures in accordance with provisions of Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH, to consider the Case. The Department found that neither Plaintiff nor his Attorney appeared during the session. However, Ms. ..., ID No. ..., appeared in her capacity as the representative of the Defendant by virtue of PoA No. (...) Dated .././..... issued by the Deputy Governor for Legal Affairs. As the Department decided to proceed with the case due to its suitability for adjudication in accordance with the provisions of Article (20) of the Tax Dispute and Violation Committee Procedures, the Department asked the Defendant's Representative about her response. She responded in accordance with the submitted memorandum of response and also provided the Department with the Taxpayer's data from the Saudi Central Bank, insisting on what was presented. Consequently, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Decision No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) and the relevant laws and regulations.

In form: Since Plaintiff filed the Case moving for cancelling the Defendant's decision regarding late VAT registration fine in accordance with the VAT Law and its Implementing Regulations. Given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction Tax Violations and Disputes Committee pursuant to Royal Order No. (M/113) dated 02/11/1438 AH. Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form.

On merits: Upon the Department's consideration of the case documents, it has become clear to the Department that the dispute lies in the imposition of a late registration fine amounting to SAR (10,000). Article (50.2) of the Common VAT Agreement of GCC States stipulates that 'The mandatory registration threshold shall be 375,000 Saudi Riyals.' Article (3) of the Implementing Regulations of the VAT Law also states: "For registration purposes, every Resident Person in the Kingdom who is not registered by the Authority must at the end of each month calculate the value of his Supplies made in the Kingdom within the twelve months then ended, in accordance with the requirements set out in the Agreement. In cases where this value exceeds the Mandatory Registration Threshold detailed in the Agreement, the Person must apply to the Authority to register within thirty (30) days of the end of that month pursuant to Article eight of these Regulations". Given that the Defendant based its decision to impose the late registration fine, issued under number (...) Dated .././..... on the Plaintiff's exceeding the mandatory registration threshold stipulated by the regulations, based on data issued by the Saudi Central Bank. And given that the Plaintiff failed to attend the session despite being duly notified of the session date, thus forfeiting their right to plead their case, and given that the Defendant's decision has been proven correct, the Department deems it appropriate to dismiss the Plaintiff's case regarding the late registration fine.

Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Chamber, after unanimous deliberation, decided:

Decision:



First: Accept Plaintiff's case in form.

Second: Dismiss the Plaintiff's case regarding the late registration fine on merits.

This decision is issued in the presence of both parties and is considered final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

The Second Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh

Decision No. (VSR-2022-1754)
Delivered in Case No. (V-74902-2021)

Key words:

Value Added Tax (VAT) – Final Assessment – Taxable Local Sales At Standard Rate- Misdeclaration Fine – Late Payment Fine.

Abstract

The Plaintiff instituted this case moving to cancel ZATCA's decision regarding the final assessment for 1Q 2020, the fine for misdeclaration, and the late payment fine. ZATCA responded by arguing for the correctness of its procedure and requests the Esteemed Committee to rule to dismiss the case and uphold its procedure. The Department has established the following: First: Regarding the item of local sales subject to the standard tax rate: All sales are exempt from tax according to the buyers' possession of a first home certificate, and the Plaintiff reviewed ZATCA's branch in Taif and inquired about the possibility of carrying forward the tax to the next quarter and was informed that it was permissible. However, the Plaintiff's failure to supply and disclose its sales is considered a violation of the law, as the tax supply is due from the date of issuing the tax invoice or the date of receiving the consideration, partially or fully, whichever is earlier, within the limits of the amount received. This makes it impossible to carry forward the declaration of its sales to the subsequent quarter. Based on the foregoing, the Department decides to uphold the Defendant's procedure and dismiss the objection. Second: Misdeclaration Fine: It is clear to the Department that the Plaintiff is requesting cancellation of the fine for misdeclaration, which resulted from the Defendant's (ZATCA) amendment of the Plaintiff's tax return for 1Q 2020, due to the addition of sales resulting from an audit of the Plaintiff's records. As the Department's decision in the first item upheld the Defendant's procedure, and given that the fine for misdeclaration resulted from the Defendant's reassessment and the showing of tax due, it is decided to uphold the Defendant's procedure and dismiss the objection. Third: Late payment fine: After reviewing the entire case file and its contents of pleadings, it became clear that the Plaintiff is requesting cancellation of the fine resulting from the Defendant's amendment of the Plaintiff's tax return, due to the addition of sales resulting from an audit of the Plaintiff's records. As the Department's decision in the first item upheld the Defendant's procedure, and given that the late payment fine resulted from ZATCA's reassessment and the showing of tax due, it is decided to uphold the Defendant's procedure and dismiss the objection. Therefore, the Department ruled to: Dismiss the case on merits regarding the final assessment of the item of local sales subject to the standard tax rate for 1Q 2020, and the resulting fine for misdeclaration and late payment fine.

Instruments:

- Articles (1) and (23/1) of [the Common VAT Agreement of GCC States, issued pursuant to Royal Decree No. M/51 dated 03/05/1438 AH](#)



- Articles (42/1) and (43) of [the Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Article (14) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) on 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday, 11/05/2022, Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH as amended, and constituted by Royal Order No. (17218) of 27/3/1442 AH, held its session to consider the case filed by/....., against ZATCA. Since the case met the prescribed legal requirements, it was filed with General Secretariat of the Tax Committees on 10/10/2021.

Facts of the case are summarized in that the Plaintiff, ..., ID No., submitted a statement of claim that included his objection to the final assessment for 1Q 2020, misdeclaration, and late payment fines.

Upon presenting the statement of claim to the Defendant, it argued for the correctness of its procedure based on Article (26) of the VAT Law and Article (64.1) of the Implementing Regulations of the VAT Law and accordingly requests the Esteemed Committee to rule to dismiss the case and uphold ZATCA's procedure.

On Wednesday, 11/05/2022, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH to consider the case. Mr. (...) was present National ID No..... in his capacity as the Plaintiff's Attorney under POA No. (...), in addition to Ms. (...), ID No.(....) in her capacity as the Defendant's Representative under Authorization Letter No. (...) Dated .././..... issued by Deputy Governor for Legal Affairs. Having asked the Plaintiff's Attorney about his client's claim, he answered that they maintain the argument mentioned in the statement of claim. Having asked the Defendant's Representative about his reply, he answered that they maintain their memorandum of reply Having asked both parties if they would like to add any statements or documents, they were satisfied with their earlier submissions. Accordingly, the Department decided to adjourn session for deliberation before issuing decision.

Grounds

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Decision No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) and the relevant laws and regulations.

In form: Since Plaintiff filed the Case moving for cancelling the Defendant's decision regarding the final assessment for 1Q 2020 in accordance with the VAT Law and its Implementing Regulations. Given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction Tax Violations and Disputes Committee pursuant to Royal Order No. (M/113) dated 02/11/1438 AH. Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form.

On merits: After reviewing the relevant Agreement, Law, and Regulations, and referring to the complete case file, it is clear that the Plaintiff objects to the Defendant's decision regarding the



final assessment for 1Q 2020, concerning the item of local sales subject to the standard tax rate, the misdeclaration and the late payment fines.

First: Regarding Local sales subject to standard tax rate: It is clear to the Department that the Plaintiff objects to the Defendant's decision, where the Defendant audited the Plaintiff's records and subjected sales amounting to SAR (3,810,000) to tax. In response to the memorandum of reply, the Plaintiff stated that all sales are exempt from tax according to the buyers' possession of a first home certificate. The Plaintiff also added that they visited ZATCA's branch in Taif and inquired about the possibility of carrying forward the tax to the next quarter and were informed that it was permissible. However, the Plaintiff's failure to supply and disclose its sales is considered a violation of the law, as the tax supply is due from the date of issuing the tax invoice or the date of receiving the consideration, partially or fully, whichever is earlier, within the limits of the amount received. This makes it impossible to carry forward the declaration of its sales to the subsequent quarter. Based on Article (23.1) of the Common VAT Agreement of GCC States, which states, 'Tax becomes due on the date of the supply of Goods or Services, the date of issuance of the tax invoice or upon partial or full receipt of the Consideration, whichever comes first, and to the extent of the received amount,' and Article (1) of same Agreement, which states, "Supplies on which Tax is charged in accordance with the provisions of the Agreement, whether at the standard rate or zero-rate, and for which associated Input Tax is deducted in accordance with the provisions of the Agreement". Based on the foregoing, the Department decides to uphold the Defendant's procedure and dismiss the objection.

Second: Misdeclaration Fine: It is clear to the Department that the Plaintiff is requesting cancellation of the fine for misdeclaration, which resulted from the Defendant's (ZATCA) amendment of the Plaintiff's tax return for 1Q 2020, due to the addition of sales resulting from an audit of the Plaintiff's records. According to the provisions of Article (14) of the Implementing Regulations, and given our decision in the first item to uphold the Defendant's procedure, and since the fine for misdeclaration resulted from the Defendant's reassessment and the showing of tax due, according to the provisions of Article (42.1) of the VAT Law, 'Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due,' the Department decides to uphold the Defendant's procedure and dismiss the objection.

Third: Late payment fine: After reviewing the entire case file and its contents of pleadings, it became clear that the Plaintiff is requesting cancellation of the fine resulting from the Defendant's amendment of the Plaintiff's tax return, due to the addition of sales resulting from an audit of the Plaintiff's records and according to the provisions of Article (14) of the Implementing Regulations, 'Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom.' Given our decision in the first item to uphold the Defendant's procedure, and since the late payment fine resulted from ZATCA's reassessment and the showing of tax due, according to the provisions of Article (43) of the VAT Law, 'Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid,' the Department decides to uphold the Defendant's procedure and dismiss the objection.

Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Chamber, after unanimous deliberation, decided:



Decision:

First: Accept the Case in form.

Second: Dismiss the case on merits regarding the final assessment of the item of local sales subject to the standard tax rate for 1Q 2020, and the resulting fine for misdeclaration and late payment fine.

This decision was rendered in the presence of both parties. The Department has specified (30) thirty days as the deadline for receiving a copy of the decision, and the Department may extend the delivery date for another (30) thirty days as it deems appropriate. Parties to the case may request an appeal within thirty days from the day following the date specified for its receipt. If no objection is filed within this period, the decision shall become final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

The Second Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh

Decision No. (VSR-2022-1773)
Delivered in Case No. (V-72254-2021)

Key words:

Value Added Tax (VAT) – Late Registration Fine – Mandatory Registration Threshold - Dismissal of Plaintiff's Case.

Abstract

The Plaintiff instituted this case moving to cancel ZATCA's decision regarding the imposition of a late registration fine. ZATCA responded by arguing for the non-acceptance of the case. The Department has established that the dispute lies in the imposition of a late registration fine amounting to SAR (10,000). The Defendant based its decision to impose the late registration fine, issued under number (...) Dated .././..... on the Plaintiff's exceeding the mandatory registration threshold stipulated by the regulations, based on data issued by the Saudi Central Bank. Given that the Plaintiff failed to attend the session despite being duly notified of the session date, thus forfeiting their right to plead their case, Therefore, the Department ruled the correctness of the Defendant's decision. The Department ruled to Dismiss the Plaintiff's case regarding the late registration fine.

Instruments:

- Article (50.2) of [Common VAT Agreement of GCC States, promulgated by Royal Decree No. M/51 dated 03/05/1438 AH.](#)
- Article (3) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) on 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 23/05/2022, Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH as amended, and constituted by Royal Order No. (17218) of 27/3/1442 AH, held its session to consider the case filed by/....., against ZATCA. Since the case met the prescribed legal requirements, it was filed with General Secretariat of the Tax Committees on 23/09/2021.

Facts of this case are as follows: the Plaintiff,....., ID No., in her capacity as Owner of ... Establishment for Foodstuffs, under CR No. (...), submitted a statement of claim that included her objection to the imposition of a late registration fine.

Upon presenting the statement of claim to the Defendant, it responded by arguing for non-acceptance of the case, based on Article (50.2) of the Common VAT Agreement of GCC States, and Articles (6) and (3), paragraph (9) of Article (79), and Article (56) of the Implementing Regulations of the VAT Law.



On Monday, 23/05/2022, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH to consider the Case. The Plaintiff and her Attorney failed to attend despite being duly notified of the session date. Ms. ..., ID No. (...), appeared in her capacity as the representative of the Defendant by virtue of PoA No. (...) Dated .././..... issued by the Deputy Governor for Legal Affairs. The Defendant's Representative was asked about her response and replied with the submitted memorandum of reply. She also provided the Department with the Taxpayer's data from the Saudi Central Bank and maintained previous arguments. Consequently, the Department decided to adjourn the session for deliberation in preparation for issuing the decision

Grounds

Having perused and verified case papers, and having perused Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, and in accordance with the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, and its Implementing Regulations issued by ZATCA Board Resolution No. (3839) dated 14/12/1438 AH as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of the States of the Gulf Cooperation Council (GCC), as well as other relevant laws and regulations.

In form: Since the Plaintiff filed the Case moving for cancelling the Defendant's decision regarding late VAT registration fine in accordance with the VAT Law and its Implementing Regulations. Given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction Tax Violations and Disputes Committee pursuant to Royal Order No. (M/113) dated 02/11/1438 AH. Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form.

On merits: Upon the Department's consideration of the case documents, it has become clear to the Department that the dispute lies in the imposition of a late registration fine amounting to SAR (10,000). Article (50.2) of the Common VAT Agreement of GCC States stipulates that "The mandatory registration threshold shall be 375,000 Saudi Riyals." Article (3) of the Implementing Regulations of the VAT Law also states: "For registration purposes, every Resident Person in the Kingdom who is not registered by the Authority must at the end of each month calculate the value of his Supplies made in the Kingdom within the twelve months then ended, in accordance with the requirements set out in the Agreement. In cases where this value exceeds the Mandatory Registration Threshold detailed in the Agreement, the Person must apply to the Authority to register within thirty (30) days of the end of that month pursuant to Article eight of these Regulations". Given that the Defendant based its decision to impose the late registration fine, issued under number (...) Dated .././..... on the Plaintiff's exceeding the mandatory registration threshold stipulated by the regulations, based on data issued by the Saudi Central Bank. And given that the Plaintiff failed to attend the session despite being duly notified of the session date, thus forfeiting their right to plead their case, and given that the Defendant's decision has been proven correct, the Department deems it appropriate to dismiss the Plaintiff's case regarding the late registration fine.

Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Chamber, after unanimous deliberation, decided:

Decision:

First: Accept Plaintiff's case in form.

Second: Dismiss the Plaintiff's case regarding the late registration fine.



This decision is issued in the presence of both parties and is considered final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

The Second Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh

Decision No. (VSR-2022-1794)
Delivered in Case No. (V-74801-2021)

Key words:

Value Added Tax (VAT) – Final Assessment – Taxable Local Sales At Standard Rate- Misdeclaration Fine – Late Payment Fine.

Abstract

The Plaintiff requests the annulment of the decision made by the Zakat, Tax and Customs Authority regarding the reassessment for the fourth quarter of 2018, the fine for error in the declaration, and the fine for late payment. ZATCA responded that it stands by the correctness of its actions and requests the esteemed committee to rule in favor of rejecting the case and upholding ZATCA's actions in question. The Department established, regarding the item of local sales subject to tax at the basic assessment, that the Plaintiff objected to Defendant's decision, as it referred back to the shared database at the Ministry of Justice and subjected sales worth 780,000 SAR to tax. The Plaintiff responded to the rebuttal by stating that he was informed by a representative of ZATCA, after calling the number 19993, that the tax calculation would start from the beginning of 2019. Due to the lack of clarity in the mechanism followed for individuals, the Plaintiff's failure to report and disclose his sales is considered a violation of the provisions of the aforementioned legal texts. The tax is due from the date of issuing the tax invoice or the date of receiving the payment, either partially or fully, depending on which amount is received first. Consequently, it is not possible to carry forward his declaration of sales to the subsequent quarter. After reviewing the Plaintiff's data at the Ministry of Justice, which led the Defendant to amend the declaration concerning local sales subject to tax for the fourth quarter of 2018, it was found that the Plaintiff sold a property (an apartment) for 780,000 SAR on 09/10/2018, but he did not disclose this sale in the declaration submitted for the tax period in question. Regarding the item on the fine for error in the declaration: It is clear to the Department that the Plaintiff is demanding cancellation of the fine for error in the declaration, which resulted from the amendment of the Defendant (ZATCA) to the tax Plaintiff's declaration related to the fourth quarter of 2018, in order to add sales after referring to the common database of the Ministry of Justice, and where the Department's decision in the first item resulted in supporting the Defendant's action, and since the fine for error in the declaration resulted from the re-evaluation of the Defendant and the showing of a due tax, and with regard to the late payment fine item: After reviewing the entire case file and the defenses it contained, it became clear that the Plaintiff's request to cancel the fine resulted from the Defendant's (ZATCA) amendment to the tax Plaintiff's declaration, in order to add sales after referring to the common database of the (Ministry of Justice), and where the department's decision in the first item resulted in supporting the Defendant's action, and since the late payment fine resulted from the re-evaluation of ZATCA and showing a due tax. This Department ruled to Reject case regarding revaluation of the taxable domestic sales item for the fourth quarter of 2018, and the resulting fine for error in declaration and late payment fine.



Instruments:

- Articles (1) and (23/ 1) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Articles (42/1) and (43) of [the Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Article (14) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) on 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Wednesday, 11/05/2022, Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH as amended, and constituted by Royal Order No. (17218) of 27/3/1442 AH, held its session to consider the case filed by/..., against ZATCA. Since the case met the prescribed legal requirements, it was filed with General Secretariat of the Tax Committees on 10/10/2021.

The facts of this case are summarized in the fact that the Plaintiff ..., National ID No. (...), submitted a statement of claim that included his objection to the revaluation for the fourth quarter of 2018 and the fine for error in acknowledgment and the fine for late payment.

By presenting the statement of claim to the Defendant, it submitted the validity of its action based on Article (26), Paragraph (1) of Article (42) and Article (43) of the Value Added Tax Law, and to Paragraph (1) of Article (64) and Article (14) of the Implementing Regulations of Value Added Tax. Accordingly, it requests the esteemed committee to reject the case and support ZATCA's action.

On Wednesday, 11/05/2022 AD, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. The Plaintiff attended on their own behalf, and ... attended, with National ID number (...), as a representative of the Defendant by virtue of authorization letter number (...) Dated .././..... issued by the Deputy Governor for Legal Affairs, and by asking the Plaintiff about his case, he answered in accordance with what was stated in the statement of claim and adheres to what was stated in it. He also added that he has a document proving the effectiveness of the registration dated 01/11/2018. Accordingly, the Department requested that the document be sent via e-mail to be attached to the case file. By asking the representative of the Defendant about her response, she answered in accordance with the response memorandum and adheres to what is stated in it. She also stated that the claim made by the Plaintiff regarding the effective date of the registration is incorrect, as the entry into force is on 01/01/2018 and she submitted a document proving this. When asking both litigants if they had any other statements, they responded that they are satisfied with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation in preparation for issuing a decision therein.

Grounds

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Decision No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures



promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) and the relevant laws and regulations.

In form: Since the Plaintiff aims through their case to annul the Defendant's decision regarding the reassessment for the fourth quarter of 2018, the fine for error in the declaration, and the fine for late payment, based on the Value Added Tax Law and its Implementing regulations, and since this dispute is considered one of those within the jurisdiction of the Tax Violations and Disputes Resolution Committee under Royal Decree No. (M/113) dated 2/11/1438 AH, and since the case was filed by a person with standing and within the legal timeframe, the case must be accepted in form.

On merits, after reviewing the agreement, the Law and the relevant regulations, and by reference to the entire case file, it is clear that the Plaintiff objects to the Defendant's decision regarding the revaluation for the fourth quarter of 2018, with regard to the item of domestic sales subject to tax in the basic ratio, the fine for error in acknowledgment and the fine for late payment.

First: Regarding the domestic taxable sales at the standard rate: It is clear to the Department that the Plaintiff objects to the Defendant's decision, as she referred to the common database of the Ministry of Justice, and subjected sales to a value of SAR (780,000), while the Plaintiff replied to the response note that he was informed by the representative of ZATCA after calling the number (19993) that the tax calculation will be from the beginning of 2019, and because of the lack of clarity of the mechanism followed for the category of individuals, especially since Royal Order No. A/86 dated 18/4/1439, which stipulates that the state bears the value added tax on the first dwelling, was implemented, and because of the existence of Commercial Bank as a buyer party, the tax exemption will be automatic for all parties (seller + buyer) to bear the value of the tax, and since what the Plaintiff did not supply and disclose its sales is a violation of the provisions of the statutory texts referred to above, the supply of the tax is due from the date of issuance of the tax invoice or the date of receipt of the consideration in part or in full and within the limits of the amount received, whichever is earlier, which is not possible to carry forward the declaration of its sales for the subsequent quarter; and after reviewing the Plaintiff's data with the Ministry of Justice, which the Defendant amended the declaration related to the item of local sales subject to tax for the fourth quarter of 2018, the department found that the Plaintiff sold a property (apartment) in the amount of SAR (780,000) on 09/10/2018, but did not disclose this sale in the declaration submitted by him for the tax period in question; and based on the foregoing, and based on what is stated in paragraph (1) of Article (23) of the agreement "Tax is due on the date of supply of goods or services, on the date of issuing the tax invoice, or on the date of receiving payment, either partially or fully, depending on which amount is received first," and Article (1) of the Common Agreement on Value Added Tax for the Gulf Cooperation Council countries states: "Supplies subject to tax under the provisions of the agreement, whether at the basic rate or at the zero percent rate, and input tax related to them shall be deducted according to the provisions of the agreement." Therefore, the Department decided to uphold the actions of the Defendant and reject the objection.

Second: Misdeclaration Fine: It is established to the Department that the Plaintiff is demanding cancellation of the fine for error in the declaration, which resulted from the amendment of the Defendant (ZATCA) to the tax Plaintiff's declaration related to the fourth quarter of 2018, in order to add sales after referring to the common database of the Ministry of Justice, and in accordance with the provisions of Article (14) of the Implementing regulations of the Law, which states: "Without prejudice to the provisions of Article Two of the law, for the purposes of applying the agreement and the law in the Kingdom, tax is imposed on all taxable supplies of goods and services made by any taxable person in the Kingdom in the context of exercising economic activity, or on those received by any taxable person in the Kingdom in the context of exercising economic activity in cases where the reverse charge mechanism is applied, and on the import of goods into the Kingdom." Since the Department's decision in the first item upheld the actions of the Defendant, and since the fine for error in the declaration resulted from the Defendant's reassessment and the



declaration of tax owed, according to the provisions of paragraph (1) of Article (42) of the Value Added Tax Law, "Any person who submits a false tax declaration to the Authority, modifies a tax declaration after submission, or provides any document to the Authority regarding the tax owed that results in an error in calculating the tax amount lower than what is due shall be punished with a fine equivalent to (50%) of the difference between the calculated tax and the tax owed." Therefore, the Department concludes by upholding the actions of the Defendant and rejecting the objection.

Third: Late payment fine: After reviewing the entire case file and the defenses it contained, it became clear that the Plaintiff's request to cancel the fine resulted from the amendment of the Defendant (ZATCA) to the tax Plaintiff's declaration, in order to add sales after referring to the common database of the Ministry of Justice, and in accordance with the provisions of Article (14) of the Implementing regulations of the Law, which stipulates: "Without prejudice to the provisions of Article Two of the law, for the purposes of applying the agreement and the law in the Kingdom, tax is imposed on all taxable supplies of goods and services made by any taxable person in the Kingdom in the context of exercising economic activity, or on those received by any taxable person in the Kingdom in the context of exercising economic activity in cases where the reverse charge mechanism is applied, and on the import of goods into the Kingdom." Since the Department's decision in the first item upheld the actions of the Defendant, and since the fine for late payment resulted from ZATCA's reassessment and the declaration of tax owed, according to the provisions of Article (43) of the Value Added Tax Law, "Any person who fails to pay the tax owed within the period specified by the regulations shall be punished with a fine equivalent to (5%) of the unpaid tax amount for each month or part thereof for which the tax has not been paid." Therefore, the Department concludes by upholding the actions of the Defendant and rejecting the objection. Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Chamber, after unanimous deliberation, decided:

Decision:

First: Accept Plaintiff's case in form.

Second: The case is rejected on merits regarding reassessment of the item of local sales subject to tax at the basic assessment for the fourth quarter of 2018, along with the resulting fines for error in the declaration and for late payment.

This decision was rendered in the presence of both parties. The Department has specified (30) thirty days as the deadline for receiving a copy of the decision, and the Department may extend the delivery date for another (30) thirty days as it deems appropriate. Parties to the case may request an appeal within thirty days from the day following the date specified for its receipt. If no objection is filed within this period, the decision shall become final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

The Second Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh

Decision No. (VSR-2022-1822)
Delivered in Case No. (V-72665-2021)

Key words:

VAT - Field inspection fine - Non-collection of VAT - Non-retention of tax invoices - Non-compliance with tax invoice requirements.

Abstract

The Plaintiff requests the annulment of the decision made by the Zakat, Tax, and Customs Authority regarding the field inspection fine due to the non-collection of Value Added Tax, the fine for failure to retain tax invoices, and the fine for non-compliance with tax invoice requirements. ZATCA responded that the case should be deemed inadmissible. The Department confirmed that the Plaintiff seeks to annul the Defendant's decision regarding field inspection fine number (...) due to the non-collection of Value Added Tax, and field inspection fine number (...) resulting from the failure to retain tax invoices. Regarding field inspection fine number (...), it was established that a fine for violating the provisions of the law or regulation amounting to 10,000 SAR was issued against the Plaintiff due to their failure to collect Value Added Tax at the rate stipulated by law. The Defendant was unable to present the violation notice despite the Department's request for it. The Department found, through the field inspection report dated ..., that it lacked the taxpayer's signature, and in such cases, according to the representative of the Defendant, the field inspector records "refused to sign." However, this phrase was also absent. Regarding field inspection fine number (...), it was established that a fine for violating the provisions of the law or regulation amounting to 10,000 SAR was issued against the Plaintiff for failing to retain tax invoices. The Defendant also could not present the violation notice despite the Department's request. The Department found, through the field inspection report dated ..., that it lacked the taxpayer's signature. in such cases and according to the statement of the representative of the Defendant, the field inspector writes the phrase "refrained from signing", but this phrase is not mentioned either — this means: Non-acceptance of the Plaintiff's objection in formal terms with regard to the field inspection fine No. (...), and acceptance of the Plaintiff's objection in formal terms with regard to the field inspection fines No. (...) and No. (...), in addition to acceptance of Plaintiff's objection on merits and cancellation of Defendant's decision regarding the field inspection fines No. (...) and No. (...).

Instruments:

- Articles (36) and (45/3) of [the Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (53/8) and (1/66) of [the Implementing Regulations of Value Added Tax Law issued by Decision of the Board of Directors of the General Authority of Zakat and Income \(currently ZATCA\) No. \(3839\) dated 14/12/1438 AH](#)



Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 23/05/2022, Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH as amended, and constituted by Royal Order No. (17218) of 27/3/1442 AH, held its session to consider the case filed by/..., against ZATCA. Since the case met the prescribed legal requirements, it was filed with General Secretariat of the Tax Committees on 28/09/2021.

Facts of this case are summarized as follows: the Plaintiff (...), holder National ID No., in his capacity as owner of (...) Establishment, Pursuant to C.R. No. (...), submitted a statement of claim that included his objection to the field inspection fine as a result of (non-collection of VAT), a fine (non-retention of tax invoices) and a fine (non-compliance with the requirements of the tax invoice), and requests its cancellation.

By presenting the statement of claim to the Defendant, she replied that she argues that the case is inadmissible, based on Article (66) Paragraph (1) of the Implementing Regulations of the Value Added Tax Law and Paragraph (3) of Article (45) of the Value Added Tax Law.

On Sunday, 13/02/2022 AD, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. By calling on the parties to the case, the Plaintiff or his representative did not attend appear, despite the fact that they were duly informed of the date of this hearing via the e-mail registered in the case file, and attended, under Civil Registry No. (...) in her capacity as Defendant's representative "ZATCA" by virtue of authorization No. (...), dated Issued by the Deputy Governor for Legal Affairs, the Department decided to dismiss the case due to its inadmissibility for adjudication.

The Plaintiff submitted a request to resume the proceedings on 14/02/2022.

On Wednesday, 12/10/2022 AD, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. The Plaintiff attended, identified by National ID No. ..., and ... attended, identified by National ID No. (...) appeared in her capacity as the representative of the Defendant by virtue of PoA No. (...) Dated ../../..... Issued by the Deputy Governor for Legal Affairs. In this session, the Department asked the Plaintiff about his case and he replied in accordance with what was stated in his statement of claim and adheres to what is stated in it. The representative of the Defendant responded according to the contents of the response memorandum and maintained the statements made therein. During this session, the Department requested that the representative of the Defendant provide the notices of the fines related to the case. She requested additional time to supply these notices due to a technical issue that prevented her from providing them. Accordingly, the Department decided to accept representative's request and postponed consideration of the case to Thursday, 19/05/2022.

On Thursday 19/05/2022, the session convened via video conference in accordance with the remote video litigation procedures, pursuant to the provisions of Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. 26040 dated 21/04/1441 AH. The Plaintiff identified by National ID No. ..., and ... attended, identified by National ID No. (...) appeared in her capacity as the representative of the Defendant by virtue of PoA No. (...) Dated ../../..... issued by the Deputy Governor for Legal Affairs, during this session, the Department asked the representative of the Defendant about the extension granted to her. She responded that it was not possible to obtain the fine notices for the same reason. The Department also inquired about her substantive response regarding the fines in the case, and the representative requested additional time to provide it. Accordingly, the Department decided to accept the representative's request and postponed the consideration of the case to Monday, 23/05/2022.



On Monday, 23/05/2022, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH to consider the Case. The Plaintiff attended, identified by National ID No, and attended ..., National ID No. (...) appeared in her capacity as the representative of the Defendant by virtue of PoA No. (...) Dated .././..... issued by the Deputy Governor for Legal Affairs. During this session, the Department asked the representative of the Defendant about the extension granted to her. She responded according to the documents submitted during the session, maintaining the contents therein. Upon reviewing those documents and based on the arguments presented by both parties, the Department found that the Defendant was unable to provide the notices for the following numbers: (...) (...) The Defendant only submitted fine notice No. (...). It was also evident to the Department that the field inspection reports for fine No. (...) and No. (...) were lacking the signature of the responsible Plaintiff. When the representative of ZATCA was asked about this, she responded that taxpayers may refuse to sign, but the report should include the phrase "refused to sign." When both parties were asked if they wanted to add anything, they stated that they would rely on what had been previously submitted. Accordingly, the Department decided to adjourn the session for deliberation before delivering its decision.

Grounds

Having reviewed the case documents and after careful examination, and having reviewed the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH and its amendments, its Implementing Regulations issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH and their amendments, and based on the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH and its amendments, the Implementing Regulations of the Law issued by the Board of Directors of the General Authority of Zakat and Tax Resolution No. (3839) dated 14/12/1438 AH and their amendments, the Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC), and other relevant laws and regulations.

In form, since the Plaintiff aims to annul Defendant's decision regarding imposition of field inspection fines with the following numbers: (...) and (...) and (...), this dispute falls within the jurisdiction of the Committee for Adjudicating Violations and Tax Disputes under Royal Decree No. (M/113) dated 2/11/1438 AH. Regarding field inspection fine number (...), and based on Articles (2) and (3) of Tax Dispute and Violation Committee Procedures, it is evident from the case file that the Plaintiff submitted their case on 28/09/2021 and did not file an objection to the decision issued by the Defendant on 03/05/2021. This indicates that the Plaintiff submitted their case concerning this objection after the statutory period had expired, resulting in the Department deciding to reject the objection on formal Grounds. As for field inspection fines No. (...) and No. (...), since it has not been established that the Defendant notified the Plaintiff of the fines, the Department concludes that the objection regarding these two fines is accepted and will be examined on its merits.

On merits, after reviewing the relevant agreements, regulations, and the entire case file along with the arguments of both parties, the Department confirms that the Plaintiff seeks to annul the Defendant's decision regarding field inspection fine No. (...) due to the non-collection of Value Added Tax, and field inspection fine number (...) due to failure to retain tax invoices. The following findings were made:

First: Concerning field inspection fine number (...), it was established that a fine for violating the provisions of the law or regulation amounting to 10,000 SAR was issued against the Plaintiff due to their failure to collect Value Added Tax at the legally stipulated rate. Paragraph (8) of Article (53) of the Implementing Regulations of the Value Added Tax Law states: "A simplified tax invoice must include the following details:" (e) Tax payable or a statement that the consideration includes



tax in connection with the supply of goods or services.” Whereas paragraph (3) of Article (45) of the Value Added Tax Law stipulates: “A fine not exceeding fifty thousand (50,000) SAR shall be imposed on anyone who: 3- Violates any other provision of the law or regulation.” After reviewing case documents and noting that the Defendant was unable to present the violation notice despite the Department’s request, the Department found, through the field inspection report dated 03/10/2018, that it lacked the signature of the responsible taxpayer. In such cases, according to the representative of the Defendant, the field inspector should record the phrase "refused to sign," but this phrase was also absent. Therefore, the Department must accept the objection and annul the decision.

Second: With regard to the field inspection fine No. (...), it has been proven to the Department that a fine for violating the provisions of the Law or the Regulation in the amount of (10,000) SAR has been issued against the Plaintiff as a result of not keeping the tax invoices, and where Article (36) of the VAT Law stipulates: "The regulation shall specify the period necessary to keep tax invoices, books, records and accounting documents." Paragraph (1) of Article (66) of the Implementing Regulations of the Value Added Tax Law stipulates: "A taxable person must retain invoices, records, and accounting documents required to be kept under the provisions of the Law and these regulations for a period of at least six (6) years from the end of the tax period to which they relate." Article (45) of the Value Added Tax Law states:

"A fine not exceeding 50,000 SAR shall be imposed on anyone who: 1- Fails to retain tax invoices, books, records, and accounting documents during the period specified in the regulations, with the fine applicable for each tax period" After reviewing the case documents, and noting that the Defendant was unable to present the violation notice despite the Department's request, the Department found, through the field inspection report dated ..., that it lacked the signature of the responsible taxpayer. In such cases, according to the representative of the Defendant, the field inspector should record the phrase "refused to sign," but this phrase was also absent. Therefore, the Department must accept the objection and annul the decision.

Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Chamber, after unanimous deliberation, decided:

Decision:

First: Non-acceptance of Plaintiff's objection in form with regard to the field inspection fine No. (...).

Second: Acceptance of Plaintiff's objection in form regarding the two field inspection fines No. (...) and No. (...).

Third: Acceptance of Plaintiff's objection on merits and cancellation of Defendant's decision regarding the field inspection fines No. (...) and No. (...).

This decision was issued in the presence of both parties and is considered final and enforceable, in accordance with Article (42) of Tax Dispute and Violation Committee Procedures regarding field inspection fines No. (...) and No. (...). Moreover, The Department's decision is also subject to appeal regarding field inspection fine No. (...).

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

The Second Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh

Decision No. (VSR-2022-1828)
Delivered in Case No. (V-89695-2021)

Key words:

Value Added Tax (VAT) – Field Inspection Fine – Absence of Business Address.

Abstract

The Plaintiff seeks cancellation of the decision issued by the Zakat, Tax and Customs Authority (ZATCA) regarding imposition of a field inspection fine, due to a violation of the provisions of the VAT law or its implementing regulations (specifically, the absence of the business address), in the amount of SAR 10,000. The Plaintiff requests the annulment of Defendant's decision. ZATCA responded that its representatives visited Plaintiff's location and reviewed the simplified invoices issued by the Plaintiff to ensure compliance with the VAT Law and its Implementing Regulations. Upon inspection, it was found that the invoices did not meet the simplified invoice requirements, as they did not include the business address. After verifying Plaintiff's violation of the VAT Law and its implementing regulations as explained above, ZATCA imposed a fine of SAR 10,000. Based on the above, ZATCA requests that the claim be dismissed for the reasons mentioned. The Department found that the dispute centers around imposition of a field inspection fine for violating the VAT Law or its implementing regulations (absence of business address) in the amount of SAR 10,000. It was also noted that the inspector had issued two violations for the same matter in a previous case related to the Plaintiff (case no. ...). The notice for the previous fine was issued on (...), while the notice for the fine in the current case was issued on (...), indicating that the Defendant issued two fines for the same violation within less than a week. This is not acceptable, especially since the Plaintiff has corrected the violation and provided invoice no. (04), which meets all required conditions. Accordingly, due to the repetition of the same violation and fine, Plaintiff's correction of the violation, and the Defendant (ZATCA)'s failure to provide the field inspection report for verification, and considering that the violation was already established in the previous case achieving the intended purpose of the law and regulations. Accordingly, the Department accepts Plaintiff's case and decides to cancel decision of the Defendant (ZATCA) imposing the fine for violating the VAT Law or its regulations, amounting to SAR 10,000. Conclusion: Acceptance of Plaintiff's claim on substantive Grounds and cancellation of Defendant's decision regarding the field inspection fine subject of this case.

Instruments:

- Article (53/8) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) on 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.



On Thursday, 17/11/1443 AH, corresponding to 16/06/2022 AD, the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH and amendments thereof, and constituted by Royal Order No. (17218) of 27/03/1442 AH, held its session to consider the case filed by Plaintiff/ Establishment, against ZATCA (the Defendant). Since the case met the prescribed legal requirements, it was filed with General Secretariat of the Tax Committees on 30/12/2021 AD.

Facts of the case are summarized that, holder of National ID number (.....), in his capacity as owner of establishment, Commercial Register No. (.....) filed a case which included his objection to the decision issued by ZATCA regarding imposition of a field inspection fine, due to a violation of the provisions of the VAT Law or its implementing regulations (specifically, the absence of the business address), in the amount of SAR 10,000. He requests cancellation of Defendant's decision.

Having presented the statement of claim to Defendant, it answered as follows: “First: On Merits: “1. Representatives of the Authority visited Plaintiff's premises and examined the simplified invoices issued by the Plaintiff to verify compliance with the provisions of the VAT Law and its Implementing Regulations. Upon inspection, it was found that the invoices violated the requirements of a simplified invoice as stated in paragraphs (b) and (e) of Paragraph 8 of Article 53 of the Implementing Regulations of the VAT Law, which stipulate: “(b) Name, address of the supplier, and their tax identification number. (e) The VAT amount due or a statement that the consideration includes VAT with respect to the supply of goods or services”. The invoices in question did not include the address of the establishment. 2. After confirming Plaintiff's violation of the VAT Law and its Implementing Regulations, as detailed above, ZATCA imposed a fine of SAR 10,000 on the Plaintiff in accordance with Paragraph (3) of Article (45) of the VAT Law, which states: "A fine not exceeding fifty thousand (50,000) riyals shall be imposed on any person who: 3. violates any other provision of the Law or the Regulations". Second: Requests: In view of the foregoing, ZATCA requests the Department to rule to dismiss the case for the reasons explained". End of Answer.

On Thursday, 03/11/1443 AH, corresponding to 02/06/2022, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling parties to the case, Mr. ..., ID No. (...), appeared by virtue of a valid POA No. (...) dated In addition, ..., holder of Civil Registry No. (...) appeared in her capacity as the representative of the Defendant, “Zakat, Tax and Customs Authority (ZATCA),” by virtue of the PoA No. (...) Dated ../../..... issued by the Deputy Governor for Legal Affairs. Upon questioning the Plaintiff regarding his claim, he responded in accordance with the statement of claim. When the representative of the Defendant was asked about her response, she stated that Ministerial Resolution No. (1763), dated 24/10/1443 AH, was issued, which includes the launch of an initiative to cancel fines for a period of six (6) months starting from 01/06/2022. Accordingly, Defendant's representative requested the Department to grant her a period of time to verify whether the conditions of the fine exemption initiative apply to the subject of the current case. Accordingly, the Department accepted the request for an extension and decided to adjourn the hearing to Monday, dated 13/06/2022, at 3:00 PM.

On Monday 14/11/1443 AH, corresponding to 13/06/2022, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties of the case, the following appeared: on behalf of the owner of (...) establishment, holding National ID No. (...), by virtue of a valid POA No. (...) dated In addition, ..., holder of Civil Registry No. (...) appeared in her capacity as the representative of the Defendant, “Zakat, Tax and Customs Authority (ZATCA),” by virtue of the PoA No. (...) Dated ../../..... Issued by the Deputy Governor for Legal Affairs, during this session, the



representative of the authority stated the need for additional time to provide their response regarding whether the fines subject to the case are included in the initiative or not, due to the involvement of several departments within the authority in this matter. Accordingly, the panel approved the request for an extension and scheduled a hearing for Thursday, 16/06/2022, at 03:00 PM.

On Thursday, 17/11/1443 AH, corresponding to 16/06/2022, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling parties to the case, Mr. ..., ID No. (...), appeared by virtue of a valid POA No. (...) dated In addition, ..., holder of Civil Registry No. (...) appeared in her capacity as the representative of the Defendant, "Zakat, Tax and Customs Authority (ZATCA)," by virtue of the PoA No. (...) Dated ../../..... issued by the Deputy Governor for Legal Affairs. Upon requesting a statement from Defendant's representative regarding whether the Plaintiff is covered by the initiative, she responded that the Plaintiff is not included in the initiative due to non-compliance with its conditions. When both parties to the case were asked if they wished to add anything further, they both stated that they were satisfied with the submissions previously made. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

After reviewing case papers, careful examination thereof, and in light of Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued pursuant to the Minister of Finance Decision No. (1535) of 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 H, and Common VAT Agreement of GCC States, as well as related laws and regulations:

In form: Since the Case was filed by a person with capacity. Therefore, the Department accepts the Case in form.

On merits, Upon reviewing the case documents and the responses of both parties—after granting them sufficient time to present their arguments—the Department finds that the dispute revolves around imposition of a field inspection fine for violating the provisions of the law or its implementing regulations (specifically, the absence of the business address), in the amount of SAR 10,000. Paragraph (8) of Article (53) of the Implementing Regulations of the Value Added Tax Law, which relates to tax invoices, stipulates: "A simplified tax invoice must include the following details:" (b) The name, address of the supplier, and their tax identification number." It was established that the inspector issued two violations for the same infraction in a previous case involving the Plaintiff (case no. ...). It is noted that the notice imposing the field inspection fine for the previous case was issued on (...), and the notice for the current case was issued on (...), meaning the Defendant imposed two fines for the same violation within less than a week. Such action is unacceptable, especially given that the Plaintiff corrected the violation and provided invoice No. (04), which meets all the required conditions. Based on the above, and due to the repetition of the same violation and fine, Plaintiff's correction of the issue, Defendant's failure to attach the field inspection report for verification, and the fact that the violation was already established in the previous case—achieving the intended purpose of the law and its regulations: The Department finds in favor of the Plaintiff and decides to cancel Defendant's (Authority's) decision to impose the fine for violating the provisions of the law or its regulations, in the amount of SAR 10,000.



Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Chamber, after unanimous deliberation, decided:

Decision:

First: Accept Plaintiff's case in form.

Second: Acceptance of Plaintiff's claim on substantive Grounds and cancellation of Defendant's decision regarding the field inspection fine subject of this case.

This decision was delivered in presence of Parties as a final and enforceable under Tax Dispute and Violation Committee Procedures. Date of uploading decision to electronic system of General Secretariat of Zakat, Tax and Customs Committees shall be deemed the date of decision delivery.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

The Second Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh

Decision No. (VSR-2022-1947)
Delivered in Case No. (V-71087-2021)

Key words:

Value Added Tax (VAT) – Addition of Purchases – Reverse Charge – Late Payment – Filing Error – Tax Period – Incurred Inputs – Sales Subject to Standard Rate.

Abstract

The Plaintiff is seeking cancellation of the decision issued by the Zakat, Tax and Customs Authority regarding the final assessment (sales – purchases) of local transactions subject to the standard tax rate, and imposition of two fines: one for late payment, and another for filing error, for the tax period related to December 2020. ZATCA responded that it re-evaluated the declaration for the tax period in question, which resulted in the following: 1. Adjustment of the sales subject to the standard rate (15%), and adjustment of exports subject to zero percent VAT. 2. Adjustment of the purchases subject to the standard rate (15%). Upon reviewing Plaintiff's statement of claim, it was found that he does not object to ZATCA's actions related to the above two items. Rather, he is requesting that his declaration be amended in accordance with attachment No. (5) mentioned in his case, and his claim is limited to requesting ZATCA to add purchases that he had not previously disclosed in his declaration. Accordingly, the Committee confirms that during the audit and review process of Plaintiff's objection and request, it became clear that he is seeking to deduct purchases that were not disclosed in the VAT declaration for the period in question. He is requesting ZATCA to amend the declaration and add these amounts to the purchases. ZATCA rejected this request. Since the Plaintiff did not disclose the input VAT incurred from his purchases in the relevant tax declaration, he is not entitled to request ZATCA to apply the deduction on his behalf. It is worth noting that he retains the right to deduct such amounts in subsequent periods, provided the legal conditions are met. 3. Imposition of fines for Filing Error and Late Payment: Due to the results of the audit and assessment of the tax period in question, a fine was imposed for the filing error, as well as for late payment for the tax period under review. The Department concluded that the dispute centers around the first item, which is the final assessment for the tax period related to December 2020 (local sales subject to the standard VAT rate). The Plaintiff company objected to ZATCA's amendment of the sales subject to the standard rate for December 2020. ZATCA's amendment was based on sales that the Plaintiff had not disclosed in its tax return. The Plaintiff confirmed that it did not object to the adjustment related to exports and stated that the apparent discrepancy between the submitted VAT return and the trial balance was related to supplies, most of which were made to the client (the Saudi Ministry of Health), and these invoices were not issued during the December 2020 tax period. Instead, they were issued during January, February, and March of 2021. According to the Plaintiff, the arrangements with the client require review and approval before issuing the invoice, and he was not able to amend the VAT return for December 2020 to reflect the necessary changes. This statement is considered an admission of non-disclosure in the relevant tax period. Furthermore, VAT liability is triggered by the earliest of the following: the supply of goods or services, the



issuance of the invoice, or the full or partial payment of the consideration. Plaintiff's act of recording the revenue from the Ministry of Health during the disputed tax period indicates that the supply occurred during that period, thus subjecting it to VAT. Additionally, the Plaintiff company did not indicate or prove that it disclosed the disputed revenues during the invoicing periods or upon approval by the client, as claimed in its case. Therefore, the Department concludes that Plaintiff's claim should be rejected and that ZATCA's action regarding the adjustment of local sales subject to the standard VAT rate is correct. Regarding the second item: Final Assessment for the Tax Period of December 2020 (Local Purchases Subject to the Standard VAT Rate): The Plaintiff objects and requests to deduct purchases that were not disclosed in their declaration for the relevant tax period. ZATCA stated that the Plaintiff did not disclose the incurred purchases during the tax period in question. Regarding Plaintiff's request, the right to deduct deductible input tax is granted solely to the taxable person, and thus, the Plaintiff is not entitled to request ZATCA to perform the deduction on their behalf. Moreover, the regulations grant the Plaintiff the right to deduct any previously un-deducted purchases in subsequent periods, provided the legal conditions are met. Third: Item (Profit/Loss of the Year): Imposition of Late Payment fine resulting from the final assessment notice for the December 2020 tax period, due to ZATCA's addition of undeclared sales in the tax return, which led to VAT liabilities that were not paid on time: It was confirmed that the Plaintiff did not comply with the applicable laws and regulations. As the above items led to supporting Defendant's action, as outlined in Item (First), and since the unpaid VAT difference resulted from this, then the related consequences follow the same legal ruling. Regarding the Fourth Item: Imposition of Filing Error fine resulting from the final assessment notice for the tax period of December 2020, due to ZATCA adding undeclared sales in the tax return. Since Item (First) resulted in confirming the correctness of ZATCA's action, because the adjustment was based on the VAT being reported at an amount less than what was legally due, then the resulting filing error fine follows the same ruling. As the Plaintiff did not submit any documents or evidence to support its claims: Conclusion: Plaintiff's claim is rejected on substantive Grounds regarding the final assessment notice for the tax period of December 2020 and the resulting fines for late payment and filing error.

Instruments:

- Articles (23/1) and (44/1) of [The Common VAT Agreement of GCC States, issued pursuant to Royal Decree No. \(M/51\) dated 03/05/1438 AH](#)
- Articles (2), (26/1), (27/1), (42/1), and (43) of [the Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#).
- Articles (14), (59/1), and (49/8) of [the Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Decision No. \(3839\) dated 14/12/1438 AH](#)

Facts:

All praise is due to Allah, prayers and peace be upon the last Prophet Mohammad, and be upon his relatives and all his companions; now therefore:

On Wednesday, 30/11/1443 AH, corresponding to 29/06/2022 AD, the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, established pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and formed by Royal Decree No. (17218) dated 27/03/1442 AH, held a session to hear the above case. Since the Case fulfilled the established regulatory requirements, it was filed with General Secretariat of Zakat, Tax and Customs Committees on 16/09/2021 AD.

Facts of the case are summarized as follows: Mr., ID No. (...), in his capacity as an authorized representative of (...) Advertising Company, Commercial Registration No. (...), pursuant to Power of Attorney No. (...), submitted a statement of claim objecting to the decision issued by the Defendant (ZATCA) regarding the final assessment of local sales and purchases subject to the



standard VAT rate, and imposition of two fines: late payment and filing error, for the tax period of December 2020. He requests cancellation of Defendant's decision.

Having presented the statement of claim to Defendant, it answered as follows: "First: On Merits: ZATCA would like to emphasize that it conducted a reassessment of the tax return for the tax period in question pursuant to Article (26) of the Value Added Tax (VAT) Law, which states: "The Authority may carry out a tax assessment for the taxable person regardless of the tax return submitted by them..." And according to paragraph (1) of Article (64) of the Implementing Regulations of the VAT Law, which states: "The Authority may issue an assessment of the obligations of a taxable person for one or more tax periods, and must notify the person of that assessment upon issuance." As a result, the following actions were taken: 1. Adjustment of the item sales subject to the standard rate (15%) and adjustment of exports subject to 0% VAT. 2. Adjustment of the purchases subject to the standard rate (15%). Upon reviewing the Plaintiff's statement of claim, it appears that he does not object to ZATCA's actions regarding the above two items. Rather, he requests an amendment of his return as per attachment No. (5) referenced in his case, and as shown in the provided summary. It is clear from the above that the Plaintiff agrees with the amendments made by ZATCA and restricts his claim to requesting ZATCA to add purchases that he had not previously disclosed in his return. Accordingly, ZATCA summarizes its response as follows: ZATCA would like to inform the honorable Committee that during the audit and examination process of Plaintiff's objection and submitted request, it was determined that the Plaintiff is seeking to deduct purchases that were not disclosed in his return for the tax period in question. He is requesting ZATCA to amend the return and include those amounts under purchases. Therefore, ZATCA rejected his request based on Article (44) of the Common VAT Agreement for the Gulf Cooperation Council (GCC) States, which grants the taxable person the right to deduct eligible input VAT. Since the Plaintiff did not disclose the input VAT incurred from his purchases in his tax return, he is not entitled to request ZATCA to apply the deduction on his behalf. It is worth noting that he may deduct these amounts in subsequent periods, provided that the legal conditions are met, in accordance with Article (49) of the Implementing Regulations of the VAT Law. 3. Imposition of fines for Filing Error and Late Payment: As a result of the audit and reassessment process for the disputed tax period, the fine for an error in the tax return was imposed in accordance with Article (42), Paragraph (1) of the VAT Law, which states: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due". Additionally, a late payment fine was imposed for the tax period in question in accordance with the provisions of Article (43) of the VAT Law, which states: "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid." Second: Requests: In view of the foregoing, ZATCA requests the Department to rule to dismiss the case for the reasons explained". End of Answer.

On Wednesday, 30/11/1443 AH, corresponding to 29/06/2022 AD, the session convened remotely via video conference in accordance with remote virtual litigation procedures; pursuant to the provisions of Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) and 21/04/1441 AH. Upon calling parties to the case, Mr. (...) appeared (..... nationality), holding National ID No. (...), by virtue of a valid POA No. (...) dated .../02/1443 AH, and Mr. (...) appeared, holder of National ID No. (...). Appeared in his capacity as representative of Defendant "ZATCA", by virtue of authorization No. (.....) dated .../10/1443 AH, issued by the Deputy Governor for Legal Affairs and Compliance. Upon questioning the representative of the Plaintiff company regarding the claim, he responded in accordance with the statement of claim and affirmed its contents. Upon questioning the representative of the Defendant, he responded in accordance with the reply memorandum and affirmed its contents.



When asked if either party wished to add anything further, both parties stated that they would rely on what has already been submitted. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

After reviewing case papers, careful examination thereof, and in light of Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued pursuant to the Minister of Finance Decision No. (1535) of 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 H, and Common VAT Agreement of GCC States, as well as related laws and regulations:

In form: Since the Case was filed by a person with capacity. Therefore, the Department accepts the Case in form.

On Merits: Having taken cognizance of the case papers and documents and granted parties thereto sufficient time to present all arguments and documents, the Department found that the dispute lies in:

First Item: Final Assessment for the Tax Period of December 2020 (Local Sales Subject to the Standard VAT Rate): The Plaintiff company objected to Defendant's amendment of the sales subject to the standard VAT rate for the December 2020 tax period. Article (2) of the VAT Law states: "Tax shall be imposed on the import and supply of Goods and Services in accordance with the provisions stipulated in the Agreement, the Law and the Regulations". Whereas Article (14) of the Implementing Regulations of Value Added Tax Law stipulates: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom". In addition, Paragraph (1) of Article (26) of the Value Added Tax Law stipulates: "1. The Authority may conduct a tax assessment for the taxable person regardless of the tax return submitted by them." Defendant's amendment was based on the discovery of sales that the Plaintiff had not disclosed in its VAT return. The Plaintiff indicated that it did not object to the amendment related to exports and explained that the apparent discrepancy between the submitted VAT return and the trial balance pertained to supplies—most of which were to the client (the Saudi Ministry of Health), that were not invoiced during the December 2020 tax period but were instead invoiced in January, February, and March 2021. The Plaintiff noted that the agreement with the client required review and approval before finalizing and issuing invoices. He also stated that he was unable to amend the VAT return for December 2020 to make the necessary corrections. This statement is considered an admission of the violation, specifically the failure to disclose in the relevant tax period. According to Paragraph (1) of Article (23) of the Common VAT Agreement, the occurrence of VAT liability in relation to a supply is triggered by the earliest of the following three events: the supply itself, the issuance of the invoice, or the full or partial payment of the consideration. Plaintiff's act of recording the revenue related to the Ministry of Health in the tax period under dispute indicates that the supply took place during that period, thus making it subject to VAT. Furthermore, the Plaintiff company neither referred to nor provided evidence that it disclosed the disputed revenue in the periods in which the invoices were issued or upon client approval, as stated in its claim. Accordingly, the Department finds that Plaintiff's claim should be rejected, and the Defendant (ZATCA) acted lawfully with regard to the local sales subject to the standard VAT rate.



As for Item Second (Suppliers): Regarding the Second Item: Final Assessment for the Tax Period of December 2020 (Local Purchases Subject to the Standard VAT Rate): The Plaintiff objects and requests the deduction of purchases that were not disclosed in its VAT return for the tax period in question. Paragraph (8) of Article (49) of the Implementing Regulations of the Value Added Tax Law states: “A deduction of Input Tax may be made by a Taxable Person in a Tax Period subsequent to that Tax Period including the date of Supply, provided that the Taxable Person remains eligible to make such deduction under the other provisions of these Regulations. Input tax may not be deducted for any period that falls more than five years after the calendar year in which the supply occurred.” ZATCA stated that the Plaintiff did not disclose its incurred purchases during the relevant tax period. Regarding Plaintiff’s request, and according to Paragraph (1) of Article (44) of the Common VAT Agreement, the right to deduct input tax is granted solely to the taxable person, and thus, the Plaintiff is not entitled to request ZATCA to perform the deduction on its behalf. Moreover, the regulations allow the Plaintiff to deduct any previously non-deducted purchases in subsequent periods if the legal conditions are met, as stipulated in Paragraph (8) of Article (49) of the Implementing Regulations. Accordingly, the Department finds that Plaintiff’s claim regarding local purchases subject to the standard VAT rate should be rejected.

Third: Item (Profit/Loss of the Year): Imposition of the Late Payment fine resulting from the final assessment notice for the December 2020 tax period, due to ZATCA’s addition of undeclared sales in Plaintiff’s VAT return, which led to VAT liabilities that were not paid within the legally prescribed time: Paragraph (1) of Article (27) of the VAT Law, relating to tax payment, states: “The Regulations shall determine the time periods, terms and conditions for the payment of Net Tax due by a Taxable Person.” Paragraph (1) of Article (59) of the Implementing Regulations of VAT Law, related to tax payment, states: “Payment of Tax due by a Taxable Person in respect of a Tax Period must be made at the latest by the last day of the month following the end of that Tax Period”” Additionally, Article (43) of the VAT Law states: “Whoever does not pay the tax due within the period specified by the Regulations shall be fined an amount equaling (5%) of the value of unpaid tax, for each month or fraction of month for which the tax was not paid.” It was established that the Plaintiff failed to comply with Paragraph (1) of Article (59) of the Implementing Regulations. Since the above items resulted in confirming the validity of ZATCA’s actions (as explained in Item First), and since the failure to pay the VAT difference was a result of that, the related consequences fall under the provisions of Article (43) of the VAT Law. Therefore, the Department finds that Plaintiff’s claim should be rejected and that the Defendant (ZATCA) acted correctly in imposing the late payment fine resulting from the final assessment notice for the December 2020 tax period.

Regarding the fourth item: Imposition of the Filing Error fine resulting from the final assessment notice for the tax period of December 2020, due to ZATCA (the Defendant) adding undeclared sales in the VAT return. Paragraph (1) of Article (42) of the VAT Law states: “Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due. Since Item (First) led to supporting Defendant’s (ZATCA’s) action, given that the amendment was due to the tax being calculated at an amount less than what was legally due, the fine for the filing error, being a direct consequence of that, is also considered valid. As the Plaintiff did not provide any documents or evidence to support its arguments, the Department concludes that Plaintiff’s claim should be rejected and that Defendant’s (ZATCA’s) action is valid in accordance with Paragraph (1) of Article (42) of the VAT Law.

Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Department, after unanimous deliberation, decided:



Decision:

First: Accept Plaintiff's case in form.

Second: Rejection of Plaintiff's claim on substantive Grounds regarding the final assessment notice for the tax period of December 2020, and the resulting fines for late payment and filing error.

This decision was issued in the presence of both parties and the date of depositing the decision into the electronic system of the General Secretariat of the Zakat, Tax, and Customs Committees shall be considered the official date of delivery of the decision. Either party to the case may appeal against the decision within 30 days from the day following the date set for receipt of the decision, whereafter, the decision will be final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

The Second Department to Adjudicate the Value Added Tax Violations and Disputes in Riyadh

Decision No. (VSR-2022-1994)
Delivered in Case No. (V-72353-2021)

Key words:

Value Added Tax (VAT) – Late Registration fine – Mandatory Registration Threshold.

Abstract

The Plaintiff seeks cancellation of the decision issued by the Zakat, Tax, and Customs Authority regarding imposition of a late registration fine in the amount of SAR 10,000, and requests that Defendant's decision be annulled. ZATCA responded that the Plaintiff failed to file the claim with the General Secretariat within the legally prescribed period, and thus the challenged decision is protected by the lapse of time and is no longer subject to appeal. Upon reviewing Plaintiff's data related to point-of-sale (POS) systems with the Saudi Central Bank, it was found that the Plaintiff exceeded the mandatory registration threshold. Therefore, ZATCA argued that imposition of the late registration fine was legally valid and requested that the Department dismiss the claim. ZATCA also provided the Department with data from the Saudi Central Bank proving that the Plaintiff exceeded the registration threshold in March 2021. The Plaintiff responded that there is a regulatory provision in the Implementing Regulations which requires ZATCA to notify taxpayers if the threshold is exceeded, and requested additional time to provide it. When Defendant's representative was asked whether the Plaintiff is covered under the ministerial initiative issued in June 2022, she replied that the Plaintiff is not included, and maintained the previously submitted defenses. The Department then inquired with Defendant's representative about the late registration fine notice, to which she replied that it could not be provided because it could not be retrieved from the system. The Department found that the dispute centers on imposition of the late registration fine, in the amount of SAR 10,000. While the Defendant had registered the Plaintiff for VAT and provided data from the Saudi Central Bank which formed the basis for imposing the fine, it failed to provide the actual fine notice for verification of the legal validity of the fine. This renders the decision of the Defendant subject to cancellation. Conclusion: The claim is accepted, and Defendant's decision regarding the late registration fine is annulled.

Instruments:

- Article (50.2) of [Common VAT Agreement of GCC States, promulgated by Royal Decree No. M/51 dated 03/05/1438 AH.](#)
- Articles (3) and (56) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) on 14/12/1438 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.



On Thursday, 24/11/1443 AH, corresponding to 23/06/2022 AD, the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, formed pursuant to the Income Tax Law issued by Royal Decree No. (M/1) of 15/01/1425 AH as amended, and constituted by Royal Order No. (17218) of 27/03/1442 AH, convened to hear the above case filed by/ against ZATCA (Defendant). Since the case met the prescribed legal requirements, it was filed with General Secretariat of the Tax Committees on 26/09/2021.

The facts of this case are summarized as follows: ..., National Identity Number (...), in her capacity as the owner of ..., Commercial Registration Number (...), filed a lawsuit objecting to the Authority's decision to impose a late registration fine of (10,000) Riyals, requesting the cancellation of the defendant's decision.

Having presented the statement of claim to Defendant, it answered as follows: "First: In from: With reference to the claim identified above, we inform the Honorable Committee that the Plaintiff did not file his claim with the General Secretariat within the legally specified period, in accordance with Article (2) of Tax Dispute and Violation Committee Procedures. ZATCA's decision rejecting the objection was issued on (...) while the Plaintiff filed his claim with the General Secretariat on (...), resulting in a time gap of more than 30 days between the date of the rejection decision and the date the claim was filed. Therefore, the challenged decision is considered protected by the passage of time and is not subject to appeal pursuant to Paragraph (2) of Article (3) of Tax Committee Procedures. **Second: On merits:** 1. Paragraph (2) of Article (50) of the Common VAT Agreement of the States of the Gulf Cooperation Council states that "The Mandatory Registration Threshold shall be SAR 375,000" 2. Moreover, Article 3 of the Implementing Regulations of Value Added Tax Law states: "For registration purposes, every Resident Person in the Kingdom who is not registered by GAZT must at the end of each month calculate the value of his Supplies made in the Kingdom within the twelve months then ended, in accordance with the requirements set out in the Agreement. In cases where this value exceeds the Mandatory Registration Threshold detailed in the Agreement, the Person must apply to GAZT to register within thirty (30) days of the end of that month pursuant to Article eight of these Regulations". 3. Article (6) of the Implementing Regulations of the Value Added Tax (VAT) Law states that: "If any person required to register fails to submit a registration application to the Authority in accordance with these Regulations, the Authority may register them without requiring a formal application. The registration shall take effect from the date specified in Articles 3 and 4 of these Regulations." Upon reviewing Plaintiff's point-of-sale data with the Saudi Central Bank, it was evident that the Plaintiff exceeded the mandatory registration threshold. 4. Based on the above, imposition of the late registration fine is legally valid, in accordance with Article (41) of the VAT Law, which states: "Anyone who fails to submit a registration request within the period specified in the regulations shall be subject to a fine of (10,000) ten thousand SAR." Third: Requests: In view of the foregoing, ZATCA requests the Department to rule to dismiss the case for the reasons explained. 2. ZATCA requests the esteemed committee to dismiss the Case for the reasons stated above. End of Answer.

On Wednesday, 24/10/1443 AH, corresponding to 25/05/2022, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the case, ... Appeared, holding Civil Registry No. (...), In its own capacity. In addition, ..., holder of Civil Registry No. (...) appeared in her capacity as the representative of the Defendant, "Zakat, Tax and Customs Authority (ZATCA)," by virtue of the PoA No. (...) Dated .././..... issued by the Deputy Governor for Legal Affairs. In this session, the Department asked the Plaintiff about her claim, and she responded in accordance with the statement of claim and affirmed its contents. When this was presented to Defendant's representative, she responded in line with the reply memorandum and confirmed its contents. The Defendant also provided the Department with data from the Saudi Central Bank showing that the Plaintiff exceeded the mandatory registration threshold in March 2021. Upon presenting this to



the Plaintiff, she responded that she had a regulatory provision from the Implementing Regulations which obligates ZATCA to notify taxpayers in case the threshold is exceeded, and she requested time to provide it. Accordingly, the Department decided to accept the request for an extension and postponed the hearing to 29/05/2022 at 1:00 PM, instructing Defendant's representative to prepare a copy of the late registration fine notice.

On Sunday, 28/10/1443 AH, corresponding To 29/05/2022, the Department held a session via video conference in accordance with remote litigation procedures pursuant to Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. During this session, the Department received an email from the Plaintiff requesting a postponement of the hearing due to a health issue. Accordingly, the Department decided to accept the postponement request and reschedule the hearing.

On Monday 14/11/1443 AH, corresponding to 13/06/2022, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the case, neither the Plaintiff nor her legal representative appeared. However, (...), holder of Civil Registry No. (...), attended in her capacity as the representative of the Defendant, "Zakat, Tax and Customs Authority (ZATCA)," by virtue of the PoA No. (...) Dated ../../..... issued by the Deputy Governor for Legal Affairs. During this session, ZATCA's representative requested an extension to provide a statement regarding whether the fine under objection falls within the scope of the ministerial initiative. The Department accepted the extension request and scheduled the next hearing for Thursday, 23/06/2022 at 2:00 PM.

On Thursday, 24/11/1443 AH, corresponding to 23/06/2022 AD, the session was held via video conference in accordance with remote litigation procedures pursuant to Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the case, ... Appeared, holding Civil Registry No. (...), In its own capacity. In addition, ..., holder of Civil Registry No. (...) appeared in her capacity as the representative of the Defendant, "Zakat, Tax and Customs Authority (ZATCA)," by virtue of the PoA No. (...) Dated ../../..... issued by Deputy Governor for Legal Affairs. When Defendant's representative was asked about the matter for which she was granted a deferral in the previous session, specifically, whether the Plaintiff falls under the ministerial initiative issued in June 2022, she responded that the Plaintiff is not covered by the initiative and reaffirmed the defenses previously submitted. Accordingly, the Department asked Defendant's representative about the late registration fine notice, to which she replied that it was not possible to provide the document, as it could not be retrieved from the system, this was her response. When both parties were asked if they wished to add anything further, they each stated that they were satisfied with their previous submissions. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

After reviewing case papers, careful examination thereof, and in light of Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued pursuant to the Minister of Finance Decision No. (1535) of 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 H, and Common VAT Agreement of GCC States, as well as related laws and regulations:

In form: Since the Case was filed by a person with capacity. Therefore, the Department accepts the Case in form.



On merits: the Department, having taken cognizance of documents included in Case file and answer of each party after being granted sufficient time to provide their submissions, found that the dispute involves imposing late registration fine amounting to SAR 10,000. Article (50.2) of the Common VAT Agreement of the GCC States stipulates that 'The mandatory registration threshold shall be 375,000 Saudi Riyals.' Article (3) of the Implementing Regulations of the VAT Law also states: "Any person residing in the Kingdom and not registered with the Authority must, at the end of each month, calculate the value of their supplies over the previous twelve months in accordance with the requirements set forth in the Agreement. If this value exceeds the mandatory registration threshold stated in the Agreement, the person must submit a registration application to the Authority within thirty (30) days from the end of that month, in accordance with Article 8 of these Regulations." As the Defendant proceeded to register the Plaintiff for VAT based on the provisions of Article (56) of the Implementing Regulations of the VAT Law, which grants ZATCA the right to obtain, directly and continuously, any information held by third parties that is directly related to VAT, ZATCA provided the Department with data from the Saudi Central Bank regarding the Plaintiff, on the basis of which the late registration fine was imposed. However, ZATCA was unable to provide the Department with the actual late registration fine notice for the purpose of verifying the legal validity of the fine. Accordingly, this renders Defendant's decision subject to cancellation.

Based on the foregoing and pursuant to the provisions of the Common Excise Agreement, the Value Added Tax Law and its Implementing Regulations, and the Tax Dispute and Violation Committee Procedures, the Chamber, after unanimous deliberation, decided:

Decision:

First: To Accept case in form.

Second: The claim is accepted on its merits, and Defendant's decision regarding the late registration fine is annulled.

This decision was issued in the presence of both parties, and the date of depositing the decision into the electronic system of the General Secretariat of Zakat, Tax, and Customs Committees shall be considered the official date of delivery. The decision is final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Case

Determination Committee

First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah

Decision No. (VJ-2022-1497)
Delivered in Case No. (V-80452-2021)

Key words:

Value Added Tax (VAT) – VAT Assessment – Lack of Evidence Supporting the Objection – Absence of Objection Rejection Notice in Case File – Dismissal of the Claim on Procedural Grounds Due to Failure to Submit an Objection to ZATCA.

Abstract

The Plaintiff seeks to annul the decision issued by Zakat, Tax, and Customs Authority regarding a VAT assessment.

ZATCA responded by requesting that the claim be dismissed on procedural Grounds, as the Plaintiff did not submit an objection to ZATCA's decision. The Department found that the Plaintiff did not provide evidence of having filed an objection to ZATCA's decision in accordance with the legal procedures and that the case file lacks a notice of objection rejection issued by the Defendant. Conclusion: Dismiss the case in form and the decision is final and enforceable pursuant to Article (42) of the Tax Dispute and Violation Committee Procedures.

Instruments:

- Articles (2 and 3) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah Almighty and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

On Monday, 27/06/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah formed under the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and Royal Order No. (65472) dated 23/12/1439 AH convened to hear the above case. Given the case has fulfilled its prescribed legal requirements, it was filed with the General Secretariat of Tax Committees on 02/11/2021 AD.

Facts of the case are summarized that, holder of National ID number (.....), in his capacity as the legal representative of Company, under the Articles of Association, Commercial Registration No. (...), submitted a statement of claim objecting to the decision issued by the Defendant regarding the VAT assessment. When the Plaintiff's statement of claims was presented to the Defendant's attorney, he responded with a one-page reply submitted to the Department.

On Monday, 27/06/2022, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah convened a session remotely in accordance with the remote virtual litigation procedures pursuant to the Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) of 21/04/1441 AH. When parties to the case were called, no representative of the Plaintiff was present, while... appeared (Saudi National, under National ID No. (...)) In his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated



.../10/1443 AH, issued by the Deputy Governor for Legal Affairs, and upon asking Defendant's representative for a response, he stated that he stands by the response memorandum submitted in case file and asserts case validity for adjudication according to Article (20) of Tax Dispute and Violation Committee Procedures. Consequently, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

Having taken cognizance of documents included in Case file, and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) and the relevant laws and regulations.

In Form: Having examined case file, it was found that the Plaintiff filed his case via the e-portal on 02/11/2021 AD, and where the Defendant argued that the case was not accepted in form due to the Plaintiff not submitting his objection to ZATCA's decision as per Article 2 of the Tax Dispute and Violation Committee Procedures, which provides that: "Anyone against whom a decision has been issued by the Authority may object to it within (sixty) days from the date of notification, and the Authority shall decide on the objection within (ninety) days from the date of its submission. If the decision is issued to reject the objection or a period of (ninety) days has passed without a decision being made on it, the taxpayer may, within (thirty) days from the date of notification of the rejection of his objection before the Authority or the passing of the (ninety) day period without a decision being made on it, do any of the following: 1 - Request that the objection be referred to the Internal Committee for the purpose of settlement. If the taxpayer rejects the decision of the Internal Committee regarding the settlement or the period specified in the settlement rules has passed without reaching a settlement, the taxpayer may file a grievance against Authority's decision before the Adjudication Committee within (thirty) days from the date of notification of the decision of the Internal Committee or the passing of the period specified in the settlement rules without reaching a settlement. His claim shall not include what may have been settled with the Internal Committee. 2. File a lawsuit directly before the dispute committee". Article 3 of Tax Dispute and Violation Committee Procedures has also stated the following: "ZATCA decisions shall be final and not disputed before any other agency in the following cases: 1. If a taxpayer does not object to the decision within 60 days from the date of notification thereof. 2. If a taxpayer does not file a case before the dispute committee or does not request referral of the objection to the internal committee for settlement within 30 days from the date of notification of GAZT's decision denying said objection or upon the lapse of 90 days from the date of its filing without being decided. 3. If a taxpayer fails to file a case before the dispute committee within 30 days from the date of being notified of the internal committee's settlement decision or from the lapse of the period specified in the Settlement Procedures without reaching a settlement. Since the Plaintiff did not provide proof for his objection to ZATCA's decision in accordance with Tax Dispute and Violation Committee Procedures, and since no objection rejection notice was found in the case file, the Department accepts Defendant's plea to dismiss Plaintiff's case based on formal Grounds.

Based on the foregoing and according to the Common VAT Agreement, Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:

Decision:



- Not accept the case in form. Due to the failure to submit an objection to the Defendant in accordance with the provisions of Articles (2) and (3) of Tax Dispute and Violation Committee Procedures.

This decision was made in presence of both parties, in accordance with provisions of Article (56) of Law of Procedure Before Sharia Courts.

The Department has set a period of (30) days for the receipt of a copy of the decision, and the Department may extend the delivery period for another (30) days as it deems appropriate. The parties to the case may request its appeal within (thirty) days from the day following the date specified for receipt thereof. In the event that objection is not submitted, it shall become final and enforceable after expiry of this period. Date of uploading decision to General Secretariat electronic system shall be deemed the date of decision delivery.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

Third Department to Adjudicate Value Added Tax
Violations and Disputes Riyadh

Decision No. (VTR-2021-985)
Delivered in Case No. (V-
58657-2021)

Key words:

Value Added Tax (VAT) – Final Reassessment – Filing Error fine – Exclusion of Purchases – Local Purchases Subject to the Standard Rate – Legal Standing Requirement – Case Closure Upon Loss of Standing – Statutory Period.

Abstract

The Plaintiff seeks cancellation of the decision issued by Zakat, Tax, and Customs Authority regarding the final reassessment for the fourth quarter of 2020, and imposition of a filing error fine, requesting cancellation of the imposed fine. ZATCA responded that it acted within its legal powers by conducting a reassessment of the relevant tax periods. As a result, it excluded certain purchases disclosed by the Plaintiff in its VAT return due to Plaintiff's failure to submit supporting documents proving the right to deduction. ZATCA maintains the validity of its decision to exclude the mentioned purchases, while noting that Plaintiff's objection was accepted for the remaining purchases, and the item for local purchases subject to the standard VAT rate was amended accordingly. The Department established the following: First: Item: Local Purchases Subject to the Standard VAT Rate. Regarding the invoice from supplier (...): it was found not matching the submitted purchase report in terms of the date and invoice number shown in the sample. Regarding the invoice from supplier (...): upon matching the amount with the purchase report, the same amount was not recorded, and although the report showed six invoices from the same supplier, the actual invoice data was missing. Regarding the invoice from supplier (...): on 31-12-2020, the Department confirmed it meets the requirements of a tax invoice. Regarding the supplier (... Company Limited)) and invoice No. (...), the Plaintiff did not submit any invoice. Accordingly, the Department concludes to accept the purchases related to supplier (...), and reject the rest of the purchases. Second: Item of Filing Error fine: Defendant's representative stated in the reply memorandum that the fines related to the reassessment had already been canceled, and submitted supporting documentation confirming this. Conclusion: The item for purchases subject to the standard VAT rate shall be amended to include an amount of SAR 3,253.27. The dispute regarding the filing error fine is considered resolved and closed. Dismiss other requests - the decision shall be final and enforceable.

Instruments:

- Article (48) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Article (26) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)



- Articles (64/1), (8, 49/1) and (56) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of ZATCA No. \(3839\) on 14/12/1438 AH.](#)

Facts:



Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Monday, 21/03/2022, the Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh established pursuant to Income Tax Law promulgated by Royal Decree No. (M/1) of 15/1/1425 AH, as amended, by Royal Decree No. (17218) dated 27/03/1442 AH, convened a session to hear the above case. Since the case has met the prescribed legal procedures, it was filed with General Secretariat of Zakat, Tax, and Customs Committees on 11/07/2021AD. Facts of the case are summarized that, holder of National ID number (.....), in his capacity as Director of Company Limited, Commercial Registration No. (...), submitted a statement of claim objecting to the decision issued by the Defendant regarding the final reassessment for the fourth quarter of 2020, and imposition of a filing error fine, requesting cancellation of both the decision and the imposed fine.

Upon presenting the statement of claim to the Defendant, Zakat, Tax, and Customs Authority, ZATCA responded as follows: Regarding the Local Sales Subject to the Standard Tax Rate: ZATCA exercised its legal authority under Article (26) of the VAT Law and Paragraph (1) of Article (64) of the Implementing Regulations of the VAT Law by conducting a reassessment of the tax periods under dispute. This reassessment resulted in the exclusion of purchases declared by the Plaintiff in his VAT return, due to Plaintiff's failure to submit documents proving the right to input tax deduction, relying on Articles (49) and (56) of the Implementing Regulations of the VAT Law. The Plaintiff filed an objection to the reassessment. Upon reviewing the objection, it was found that the Plaintiff did not provide tax invoices to support the right to deduct the specified purchases. Regarding invoice No. (...) issued by the supplier (...) Company Limited, upon reviewing the tax invoice, it was found that the tax identification number was missing (see Attachment 1). Accordingly, and based on Article (48) of the Common VAT Agreement, which specifies the conditions for exercising the right to deduct, the following applies: "For the purpose of exercising the right to deduction, the taxable person must possess the following documents:" A- 'The tax invoice received in accordance with the provisions of this Agreement.' Article 49(7) of the Implementing Regulations of the Value Added Tax Law further states that: "“Input VAT may not be deducted unless the taxable person has evidence that the amount of input VAT paid or due is in accordance with the provisions specified in Article (48) of this Agreement”. ZATCA maintains the validity of its decision to exclude the purchases mentioned above. However, it also notes that it accepted Plaintiff's objection regarding the remaining purchases and accordingly amended the item for local purchases subject to the standard VAT rate to a total amount of SAR 612,562.80. ZATCA confirms that the VAT Law and its Implementing Regulations guarantee the taxable person the right to deduct input tax in subsequent tax periods, provided that the deduction conditions outlined in the Agreement, the Law, and its Regulations are met. This is in accordance with Paragraph (8) of Article (49) of the Implementing Regulations of the VAT Law, which states: "The taxable person may deduct input tax in a tax period following the period that includes the date of supply, provided that the person is entitled to make such a deduction in accordance with the other provisions of these Regulations. Input tax may not be deducted in any period after five years from the calendar year in which the supply occurred" Regarding the fines resulting from the reassessment, ZATCA informs the Honorable Committee that the fines have already been canceled, and supporting documentation is attached. Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response.

On Monday, 21/03/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and



Violation Committee Procedures issued by Royal Decree (26040) dated 21/14/1441 AH. Having called parties to case, attorney of the Plaintiff/ appeared, (Saudi National), under POA No. (...) holding National ID No., and (Saudi), holding National ID No. (...) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .../03/1443 AH, issued by the Deputy Governor for Legal Affairs. Having asked the Plaintiff regarding his case, they responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming contents of the memorandum of reply. When asked if either party wished to add anything further, both parties stated that they would rely on what has already been submitted. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, side by side with relevant laws and regulations.

In form, Since the Plaintiff aims, through this claim, to object to the final reassessment for the tax period related to the fourth quarter of 2020, and imposition of a filing error fine, based on the VAT Law and its Implementing Regulations, and since this dispute falls under the category of tax disputes, it is therefore within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH. Moreover, the claim was submitted by a party with legal standing and within the statutory time limit, and thus, the Department rules to accept the claim in form.

On merits, upon reviewing the case documents and the responses of both parties, after granting them sufficient opportunity to present their arguments, the Department finds that the Defendant issued its decision regarding the final reassessment for the tax period related to the fourth quarter of 2020, and imposed a filing error fine. The findings are as follows:

First: Local Purchases Subject to the Standard VAT Rate

The dispute lies in Defendant's exclusion of part of Plaintiff's purchases, claiming ineligibility for input tax deduction due to the absence of supporting documents, in accordance with Article (48) of the Common VAT Agreement for the Gulf Cooperation Council States, and Article (49) of the Implementing Regulations of the VAT Law. Upon reviewing the disputed invoices submitted by the Plaintiff, the Department found the following:

- A. Regarding the invoice from supplier (...), Invoice No. (3539): The Plaintiff submitted a sales invoice No. (...) dated (...-11-2020) in the amount of SAR 68,000. However, it did not match the purchase report in terms of the invoice date and number shown in the sample.
- B. Regarding the invoice from supplier (...), dated (30-11-2020): The Plaintiff submitted a sales invoice No. (...) for SAR 6,545. However, upon comparison with the purchase report, the amount was not recorded. The report showed a total of six invoices from the same supplier, but none matched the details of this invoice.
- C. Regarding the invoice from supplier (...), dated (31-12-2020): According to attached sample No. (...), the Plaintiff submitted an invoice dated 31-12-2020, which was found to comply with the tax invoice requirements.

Regarding the supplier (... Company Limited) and Invoice No. (...): The Plaintiff did not submit any invoice. Article (48) of the Common VAT Agreement for the Gulf Cooperation Council



(GCC) States stipulates that: "1. For purposes of exercising the right to deduction, the taxable person must hold the following documents: A- 'The tax invoice received in accordance with the provisions of this Agreement.' B- Customs documents proving that the person is the importer of the goods in accordance with the provisions of the Common Customs Law. Based on the above, the Department concludes to accept the purchases related to the supplier (...) and reject the rest of the purchases.

Second: Filing Error fine Item: A claim is valid only when the element of legal standing is present. If this element is lost or ceases to exist for any reason at any stage of the proceedings, it becomes necessary to issue a judgment declaring the termination of the dispute. Since Defendant's representative stated in his reply memorandum that the fines related to the reassessment had already been canceled, and submitted a document confirming cancellation, the Department concludes that the dispute regarding the filing error fine has come to an end.

Based on the above, and after deliberation, the Department unanimously decided as follows:

Decision:

First: Amendment of the item for purchases subject to the standard rate by adding an amount of SAR 3,253.27.

Second: Confirmation of the resolution of the dispute regarding the filing error fine.

Third: Reject other requests.

This decision was issued in presence of both parties. The date on which the decision was entered into the electronic system of the General Secretariat of Zakat, Tax, and Customs Committees shall be considered the date of service. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

Third Department to Adjudicate Value Added Tax
Violations and Disputes Riyadh

Decision No. (VTR-2022-946)
Delivered in Case No. (V-
67408-2021)

Key words:

Value Added Tax - Final Reassessment - Fine for Submission of Incorrect Tax Return – Late Payment Fine - Standard-Rated Local Taxable Sales – Amendment of Tax Return for the Disputed Period – Taxation of Undisclosed Revenues – Statutory Period – Case Dismissal on Merits.

Abstract

Plaintiff seeks the annulment of ZATCA's decision regarding the final reassessment for the VAT period of Q2 2018, and the imposition of fines for submission of incorrect tax return and late payment, requesting nullification thereof. ZATCA responded by stating that Plaintiff failed to file their objection in accordance with Tax Dispute and Violation Committee Procedures. Upon examination, the Department, with respect to Defendant's claim of a procedural defect due to Plaintiff's failure to submit an initial objection to ZATCA prior to filing the case, established that had indeed attempted to submit an objection to Defendant. However, Defendant conditioned acceptance of the objection on the provision of a financial guarantee. The Department determined that Defendant had unduly expanded the requirement of a financial guarantee, which is therefore disregarded. On Merits: First: (Standard-Rated Local Taxable Sales) Item: It is evident that the dispute centers on Plaintiff's objection to the amendment of the tax return for the period in question, due to Defendant subjecting revenues that the Plaintiff had failed to disclose in the original tax return. Moreover, the Department found that Plaintiff did not provide sufficient documentation to prove their residence in the property. Second: Fines for Submission of Incorrect Tax Return and Late Payment: Whereas the Department affirmed the validity of Defendant's procedures concerning the final reassessment of the VAT period in question, and given that the contested fine is a direct result of and intrinsically linked to that reassessment, the Department ruled to dismiss the case on merits and consider the decision as final and enforceable.

Instruments:

- Article (1) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Article (112) of [the Law of Civil Procedures, issued by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)
- Articles (2), (26/1) and (43/a) of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (14), (56), (64/2), and (65/2) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of Directors of the General Authority of Zakat and Income -formerly- No. \(3839\) dated 14/12/1438 AH.](#)



- Article (3.1) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Tuesday, 10/05/2022, the Third Department for Adjudication of VAT Violations and Disputes in Riyadh, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Order No. (17218) dated 27/03/1442 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 28/08/2021.

Facts of the case are summarized that, holder of National ID number (.....), in his own capacity, filed a statement of claim, challenging Defendant's decision regarding the final reassessment for the VAT period of Q2 2018, as well as the imposition of fines for submission of incorrect tax return and late payment, requesting annulment of such decision and the associated fines.

Upon presenting the statement of claim to Defendant, Zakat, Tax, and Customs Authority, ZATCA responded as follows: With reference to the case outlined above, we respectfully inform the esteemed committee that Plaintiff failed to raise an objection with ZATCA in accordance with Tax Dispute and Violation Committee Procedures. Paragraph (1) of Article (3) thereof states: "GAZT's decisions shall be final and unappealable before any other agency in the following cases: 1. If a taxpayer does not object to the decision within 60 days from the date of notification thereof." Since ZATCA's decision to reassess was issued on 17/06/2021 and Plaintiff did not file an objection within the aforementioned statutory period, the contested decision thus becomes final due to the lapse of the objection period, in accordance with Paragraph (1) of Article (3) of Tax Dispute and Violation Committee Procedures.

Plaintiff submitted a memorandum of reply wherein replied as follows: Obtaining an objection with ZATCA is not straightforward due to the prerequisite of submitting a bank guarantee to ZATCA equivalent to the value of the contested fines and penalties as a condition for the acceptance of the objection for review. This is often beyond most citizens' financial capacity, which is the primary reason for resorting to filing a case before the Zakat, Tax and Customs Committees, which impose no such requirement. In light of the foregoing, we respectfully request Your Honor to accept and adjudicate this case.

On Tuesday, 01/03/2022, the session was convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article (15.2) of the Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to case, Plaintiff neither their representative appeared, while Mr.... (Saudi National, under National ID No. (...), appeared in his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated .././... AH, issued by the Deputy Governor for Legal Affairs. Having questioned regarding their response, Defendant's representative affirmed reliance on the arguments presented in the memorandum of reply filed in the case records. Accordingly, the Department decided to adjourn the hearing of the case to a subsequent session scheduled for March 28 at 5:00 PM, in order to grant Plaintiff additional time to appear.

On Monday, 28/03/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order (26040) dated 21/04/1441 AH. Having called parties to case, Plaintiff appeared in person, and(Saudi National, under National ID No. (...)) attended in his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated 08/03/1442 AH issued by the Deputy Governor for Legal Affairs. Having asked Plaintiff regarding their case, they responded by adhering to the contents of the statement submitted to the



General Secretariat of Zakat, Tax, and Customs Committees. Plaintiff further requested additional time to submit further documentation proving residence in the property in question. When Defendant's representative was asked for a response, he affirmed the contents of the written reply. Therefore, the Department resolved to adjourn the case to May 9 at 6:00 PM, on the condition that Plaintiff submits the documents for which the adjournment was granted no later than April 18th. Defendant shall review the submitted documents and provide its response no later than April 25. Should either party fail to meet these deadlines without a justifiable excuse accepted by the Department, it shall be considered a default in accordance with Article (112) of the Law of Civil Procedures.

Accordingly, Plaintiff submitted documents, including Title Deed No. (...) dated 06/06/1440 AH, a building permit, an electricity consumption bill, and an invoice from AL-Koblan ThermoPipe Factory CO.

On the other hand, Defendant submitted a Reply, stating: ZATCA, in accordance with Paragraph (1) of Article (26) of the Value Added Tax Law, which states: "1. The Authority may make a Tax assessment of a Taxable Person irrespective of a Tax Return filed by him", and Article (64) of the Implementing Regulations of the VAT Law, which stipulates: "The Authority may make an assessment of the VAT obligations of a Person in respect of one or more Tax Periods. The Authority shall provide notification to the Taxable Person when it issues such an assessment." conducted a reassessment of the tax period in dispute. The reassessment resulted in subjecting undisclosed revenue to taxation, as Plaintiff had not reported thereof in their tax return, following a review of Plaintiff's sales data with the Ministry of Justice, in accordance with Paragraph (2) of Article (56) of the Implementing Regulations of the Value Added Tax Law. Accordingly, ZATCA maintains the validity of its decision to subject such revenues to taxation at the standard rate, pursuant to Article (14) of the Implementing Regulations of the VAT Law. ZATCA further indicates that during its examination of Plaintiff's return, it requested Plaintiff to submit supporting documentation to substantiate the accuracy of their tax return. However, Plaintiff failed to provide justification for the discrepancies and did not submit the requested documents. Regarding the documents submitted by Plaintiff following the extension granted by the Department, and upon reviewing these five documents, it is evident that they are limited to three substantive items: a mortgage and ownership deed, a building permit, and an electricity bill; all of which are in the name of (...). Plaintiff also attached a photocopy of the building permit, which is unclear and illegible, and included a document in the form of a guarantee, which cannot be considered as evidence to support any of Plaintiff's claims. Furthermore, ZATCA points out that Plaintiff possesses multiple properties sold, according to the records of the Notary Public, which suggests the existence of real estate activity. Given the lack of available evidence and documentation to substantiate the claim that the property under dispute is Plaintiff's residence, the sold properties were subjected to tax at the standard rate for the periods in which they were sold. Consequently, and in light of all the foregoing, ZATCA refers to its previous defenses in form to avoid further elaboration. Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response.

On Tuesday, 10/05/2022, the session was convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order (26040) dated 21/04/1441 AH. Having called parties to case, Plaintiff appeared in person, and Mr..... appeared (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated 08/03/1442 AH, issued by the Deputy Governor for Legal Affairs. The Department, at the outset of the session, reviewed with Plaintiff the documents they claim establish their residence in the property under dispute. Upon requesting comment from Defendant's representative, he stated that Defendant had submitted a memorandum of reply, noting that all the documents were in the name of ..., except for one document under Plaintiff's name, which does not clarify its connection to the property under dispute. He also added that Plaintiff is involved in real estate trading. When



Plaintiff was asked to comment, they stated that they do work in real estate and do not deny it. However, the property under dispute served as their residence for approximately four to five months, and due to the brevity of their occupancy, they were unable to provide documentary evidence of their residency. They further explained that the submitted documents pertain to their brother, who is their neighbor on land that was divided between them. When asked if either party wished to add anything further, both parties stated that they would rely on what has already been submitted. Accordingly, the Department decided to adjourn the session for deliberation and issue a decision.

Grounds

The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, side by side with relevant laws and regulations.

In Form, Since Plaintiff filed this Case for the purpose of challenging the final reassessment for the VAT period of Q2 2018, based on Value Added Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes as per Royal Decree No. (M/113) dated 2/11/1438 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

With regard to Defendant's contention of a formal defect, which claims that Plaintiff failed to initially file an objection with ZATCA before filing their case, Plaintiff's representative responded that Plaintiff attempted to file an objection with Defendant; however, Defendant required a financial guarantee as a condition for accepting the objection. Upon reviewing Paragraph (2) of Article (65) of the Implementing Regulations of the VAT Law, which states: "In cases where a formal review or appeal is lodged against an appealable decision, and the Authority has evidence or reason to doubt that the Taxable Person may not pay the disputed Tax, the Authority may require a cash guarantee or bank guarantee from the Taxable Person up to a maximum value of the unpaid amount of Tax and associated penalties arising in connection with the decision. A notification requiring cash security or a bank guarantee shall be issued in writing.", it is evident that the requirement for a financial guarantee, based on the provisions of the aforementioned paragraph, is an exceptional measure subject to several controls, including the existence of a state of doubt, a maximum limit for the guarantee amount, and the requirement that the guarantee request be in writing. This confirms that the legislator intends for the procedure of demanding a guarantee in objection cases to be within the narrowest limits, so as not to deprive the taxpayer of their right to seek judicial recourse. Upon reviewing Defendant's action in this regard, the Department found that Defendant had expanded the requirement for a financial guarantee to apply to all objections related to reassessments, which is contrary to Paragraph (2) of Article (65) of the Implementing Regulations of the VAT Law. Therefore, the Department concludes to disregard Defendant's argument in this matter.

On Merits, having examined case papers and response of parties thereto after giving them sufficient time to express and submit necessary documents, the Department established that Defendant issued its decision regarding the final reassessment for the VAT period of Q2 2018, and imposed fines for submission of incorrect tax return and late payment. The following was determined:



First: (Standard-Rated Local Taxable Sales) Item: It is evident that the dispute lies in Plaintiff's objection to the amendment of the tax return for the period under dispute, due to Defendant's subjection of undisclosed revenue to taxation, as Plaintiff had not reported thereof in their tax return, following a review of Plaintiff's data with the Ministry of Justice. The Department, upon considering the facts of the case, established that Plaintiff failed to provide sufficient documentation to prove their residence in the property. Furthermore, the definition of taxable supplies as outlined in Article (1) of the Common VAT Agreement of GCC States shall be as follows: "Supplies on which Tax is Charged in accordance with the provisions of the Agreement, whether at the standard rate or at the zero-rate, and for which Associated Input Tax is deducted in accordance with the provisions of the Agreement." In addition, Article (2) of the VAT Law stipulates: "Tax shall be imposed on the import and Supply of Goods and Services in accordance with the provisions stipulated in the Agreement, the Law and the Regulations." Accordingly, the Department affirms validity of Defendant's action.

Second: (Fine for Submission of Incorrect Tax Return) Item: The Department concluded that Defendant's action regarding the final reassessment of the tax period in question is valid, and since the fine under dispute is a result of and linked to this reassessment, pursuant to Paragraph (1) of Article (42) of the VAT Law, which states: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due." Therefore, the Department concludes that the Defendant's action in imposing the penalty is correct.

Third: Late Payment Fine: The Department concluded that Defendant's action regarding the final reassessment of the tax period in question is valid, and since the fine under dispute is a result of and linked to this reassessment, it is evident that Plaintiff delayed in paying the tax due within the statutory period, pursuant to Article (43) of the VAT Law, which states: "Any person who fails to pay the tax due within the period specified by the Regulations shall be subject to a fine equal to 5% of the amount of the unpaid tax for each month or part thereof for which the tax is not paid". Therefore, the Department concludes that the Defendant's action in imposing the penalty is correct.

In light of the above the Grounds and after deliberation, the Department unanimously decided the following:

Decision:

First: To Accept case in form.

Second: Dismiss the case on merits.

This decision was issued in the presence of both parties, and the date of depositing the decision in the e-system of the General Secretariat of Zakat, Tax and Customs Committees is considered the date of delivery of the decision. The parties to the case may request to appeal against the decision as per the law within thirty (30) days from the day following the date specified for its receipt, whereafter, the decision will be final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

Third Department to Adjudicate Value Added Tax
Violations and Disputes Riyadh

Decision No. (VTR-2022-1021)
Delivered in Case No. (V-
67408678602021)

Key words:

Value Added Tax – Fine for Submission of Incorrect Tax Return – Taxable Local Purchases at the Rate of 5% – Reassessment – Establishment of the Tax Due by Any Means – A Tax Invoice Must Be Held to Exercise the Right of Deduction – Due Value Added Tax – Unclear Serial Number – Statutory Period – Annulment of Defendant's Decision.

Abstract

Plaintiff seeks annulment of ZATCA's decision regarding the final reassessment for the VAT period of November 2019, as well as nullification of the fine for submission of incorrect tax return resulting from the reassessment. Thereafter, ZATCA responded as follows: It was found that two invoices did not meet the statutory requirements for a tax invoice due to the unclear serial numbers therein, which serve as unique identifiers distinguishing each invoice from another, making it difficult to verify that the invoice deduction has not been duplicated. The Department established the following, First: Standard-Rated Local Taxable Purchases (5%): Since, for the purpose of exercising the right of deduction, the taxable person must hold a tax invoice — and may exercise that right if in possession of another document, provided that such document clearly substantiates the “due value added tax” — it is evident that the two invoices indicate that Plaintiff was a customer, and also reflect the VAT amount incurred on those purchases. Accordingly, it is clear that Plaintiff is entitled to claim the deduction. Furthermore, as Plaintiff is the recipient of the invoice and not its issuer, they cannot be held accountable for formal errors in the invoice's format. As for Defendant's claim that the lack of clarity in the serial number — which serves as a unique identifier for each invoice — hinders verification against duplicate deductions, this can be countered by noting that there are other distinguishing features, such as the date, invoice number, and amount. Second: Whereas the Department, concerning the fine for submission of incorrect tax return, concluded to annul Defendant's decision concerning the final reassessment for the tax period in question, and since the fine under dispute is a result of and linked to this reassessment, the Department concludes to uphold Plaintiff's claim and annul the fine under dispute. Therefore, the Department ruled to Cancel Defendant decision and Department decision shall be deemed final and enforceable.

Instruments:

- Article (48/1, 2) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Articles (26) and (42.1) of [Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)



- Articles (53/5) and (64/1) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of Directors of the General Authority of Zakat and Income -formerly- No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Wednesday, 25/05/2022, the Third Department for Adjudication of VAT Violations and Disputes in Riyadh, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Order No. (17218) dated 27/03/1442 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 30/08/2021.

The facts of this case are summed up so as... KSA, CR No. (...), represented by, holder of Residence No. (...), in his capacity as Plaintiff Company's director as stated in the commercial registration, filed a statement of claim, challenging Defendant's decision regarding the final reassessment for the VAT period of November 2019, imposing a fine for submission of incorrect tax return resulting from the reassessment, requesting annulment of such decision and the associated fines.

Upon presenting the statement of claim to the Defendant, Zakat, Tax, and Customs Authority, ZATCA responded as follows: Upon reviewing Plaintiff's statement of claim, it turned out that it is limited to the following: - Objection to ZATCA's reassessment for the tax period in question, along with a request to annul the imposed fines. Accordingly, ZATCA summarize its response as follows: ZATCA conducted a reassessment of the tax return for the period in question pursuant to Article (26) of the Value Added Tax Law, which states: "1. The Authority may make a Tax assessment of a Taxable Person irrespective of a Tax Return filed by him", and Paragraph (1) of Article (64) of the Implementing Regulations of the VAT Law, which stipulates: "The Authority may make an assessment of the VAT obligations of a Person in respect of one or more Tax Periods. The Authority shall provide notification to the Taxable Person when it issues such an assessment." As a result, the following actions were taken: 1. Amendment of Taxable Purchases at (5%) Rate: Plaintiff presented their tax return for the period in question, disclosing amounts related to the above-mentioned item. ZATCA, during the examination and audit process to verify the accuracy of the information disclosed, contacted Plaintiff and requested additional information and supporting documents. Upon review and analysis, it was found that two invoices two invoices did not meet the statutory requirements for a tax invoice due to the unclear serial numbers therein, which serve as unique identifiers distinguishing each invoice from another, making it difficult to verify that the invoice deduction has not been duplicated. - In light of the foregoing, ZATCA amended the taxable purchases at a rate of (5%), in accordance with Article (53) of the Implementing Regulations of the VAT Law. 2. Imposition of a Fine for Submission of Incorrect Tax Return: In view of the outcome of the examination and assessment process for the tax period under dispute, a fine for submission of incorrect tax return was imposed, in accordance with Paragraph (1) of Article (42) of the Value Added Tax Law, which states: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due" Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response.

On Wednesday, 25/05/2022, the session was held via video conference in accordance with the remote virtual litigation procedures based on Article (15.2) of Tax Dispute and Violation



Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. When calling litigants, Mr., Saudi National under National ID No. (.....), appeared under PoA No. (...). However, the validity of their representation was not established before the Department in accordance with the Law of Advocacy, its Implementing Regulations, and amendments. Also present was ... (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated ../03/1442 AH, issued by the Deputy Governor for Legal Affairs, and upon asking Defendant's representative for a response, he stated that he stands by the memorandum of reply submitted in case file and asserts case validity for adjudication according to Article (20) of the Tax Dispute and Violation Committee Procedures. Consequently, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, side by side with relevant laws and regulations.

In Form, Since Plaintiff filed this Case for the purpose of challenging the final reassessment results for the VAT period of November 2019, as well as the resulting fines, based on Value Added Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits, the Department, upon examination of the case documents and the responses of both parties after granting them sufficient time to present their arguments and evidence, established that Defendant issued its decision regarding the final reassessment for the VAT period of November 2019 and imposed a fine for submission of incorrect tax return resulting from the reassessment. The following has been determined:

First: Standard-Rated Local Taxable Purchases (5%): It is evident that the dispute lies in Defendant's exclusion of the amount of SAR (3,077,886.5) from the purchases item, due to 'non-completion of the tax invoice requirements based on Paragraph (5) of Article (53) of the Implementing Regulations specifically the supplier's name' as stated in the "Final Assessment Notice." Since, for the purpose of exercising the right of deduction, the taxable person must hold a tax invoice — and may exercise that right if in possession of another document, provided that such document clearly substantiates the “due value added tax” —. Upon reviewing the invoices from the supplier “.... Est. for Trading”, Invoice No. (N-001) dated 16/09/2019 for a total of SAR (1,768,321), and Invoice No. (N-002) dated 16/10/2019 for a total of SAR (1,309,565.50), resulting in a total of SAR (3,077,886.5), it is evident that both invoices indicate that Plaintiff is the customer and show the VAT amount incurred on those purchases. Therefore, it is evident that the Plaintiff is entitled to claim the deduction. Furthermore, Paragraph (1) of Article (48) of the Common VAT Agreement of GCC States stipulates: "For the purpose of exercising the right to deduction, the taxable person must possess the following documents:" A. the Tax Invoice received pursuant to the provisions of this Agreement ...”, and Paragraph (2) of the same Article states: “Each Member State may allow the Taxable Person to exercise the right of deduction in the event that a Tax Invoice is not available or does not meet the requirements provided for in this



Agreement, provided that the value of Tax due can be established by any other means”. Whereas the fundamental criterion for accepting a document is the “establishment of the tax due by any means”, and given that Plaintiff is the recipient of the invoice and not its issuer, they cannot be held accountable for formal errors in the invoice’s format. As for Defendant’s claim that the lack of clarity in the serial number — which serves as a unique identifier for each invoice — hinders verification against duplicate deductions, this can be countered by noting that there are other distinguishing features, such as the date, invoice number, and amount, through which the invoice can be identified and the non-duplication of its deduction verified. For the foregoing reasons, the Department concludes to accept Plaintiff’s claim in this regard.

Second: (Fine for Submission of Incorrect Tax Return) Item: The Department concluded to annul Defendant's action regarding the final reassessment of the tax period in question, and since the fine under dispute is a result of and linked to this reassessment, pursuant to Paragraph (1) of Article (42) of the VAT Law, which states: “Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due.” Accordingly, the Department satisfies to accept Plaintiff's claim and nullify the fine in question.

Based on the above, and after deliberation, the Department unanimously decided as follows:

Decision:

- Annul Defendant’s (ZATCA) decision regarding the final assessment for the VAT period of November 2019, as well as the associated fines.

This decision was issued in the presence of both litigants. in accordance with Article (21) of Tax Dispute and Violation Committee Procedures. The date on which the decision was entered into the e-system of the General Secretariat of Zakat, Tax, and Customs Committees shall be considered the date of decision delivery. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt, whereafter, in the event that no appeal is submitted, the decision shall be final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

Third Department to Adjudicate Value Added Tax Violations and Disputes Riyadh

**Decision No. (VTR-2022-1022)
Delivered in Case No. (V-67873-2021)**

Key words:

Value Added Tax - Final Reassessment - Duplication of Input Tax Deduction - Local Taxable Purchases at (5%) - Fine for Submission of Incorrect Tax Return - Statutory period.

Abstract

Taxpayer seeks annulment of ZATCA's decision regarding the final reassessment for the VAT period of February 2010, as well as the fine for submission of incorrect tax return resulting from the reassessment. Plaintiff further requests nullification of the imposed fines. In response, ZATCA stated that it was found that the invoices in question pertain to previous periods. A review of the purchase statements for the prior periods revealed that Plaintiff had repeated the input tax deduction. The Department has established the following: First: Standard-Rated Local Taxable Purchases (5%): Whereas Defendant did not provide a "list of the disputed invoices" for clarification, nor did it specify the 'prior period' during which it alleges Plaintiff deducted those invoices. This lack of clarity regarding the basis for calculating the assessment issued by Defendant, and non-compliance with the aforementioned article, leads the Department to accept Plaintiff's claim on this matter. Second: Whereas the Department, concerning the fine for submission of incorrect tax return, concluded to amend Defendant's decision concerning the final reassessment for the tax period in question, and since the fine under dispute is a result of and linked to this reassessment, the Department concludes to uphold Plaintiff's claim and annul the fine under dispute. Therefore, the Department ruled to Annul Defendant's decision regarding the final reassessment for the VAT period of February 2020 and the associated fines. This decision shall be deemed final and enforceable.

Instruments:

- Article (42/1) of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- Article (40), Paragraphs (d.1), (3), and (5), Article (49), and Article (64/1) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of Directors of the General Authority of Zakat and Income -formerly- No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Wednesday, 25/05/2022, the Third Department for Adjudication of VAT Violations and Disputes in Riyadh, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Order No. (17218) dated 27/03/1442 AH to consider the aforementioned case. As the case has met the prescribed legal



requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 30/08/2021.

The facts of this case are summed up so as... KSA, CR No. (...), represented by, holder of Residence No. (...), in his capacity as Plaintiff Company's director as stated in the commercial registration, filed a statement of claim, challenging Defendant's decision regarding the final reassessment for the VAT period of February 2020, imposing a fine for submission of incorrect tax return resulting from the reassessment, requesting annulment of such decision and the associated fines.

Upon presenting the statement of claim to the Defendant, Zakat, Tax, and Customs Authority, ZATCA responded as follows: Upon reviewing Plaintiff's statement of claim, it turned out that it is limited to the following: - Objection to ZATCA's reassessment for the tax period in question, along with a request to annul the imposed fines. We summarize our response as follows: ZATCA conducted a reassessment of the tax return for the period in question pursuant to Article (26) of the Value Added Tax Law, which states: "The Authority may make a Tax assessment of a Taxable Person irrespective of a Tax Return filed by him...", and Paragraph (1) of Article (64) of the Implementing Regulations of the VAT Law, which stipulates: "The Authority may make an assessment of the VAT obligations of a Person in respect of one or more Tax Periods. The Authority shall provide notification to the Taxable Person when it issues such an assessment." As a result, the following actions were taken: 1. Amendment of Taxable Purchases at (5%) Rate: - Plaintiff presented their tax return for the period in question, disclosing amounts related to the above-mentioned item. ZATCA, during the examination and audit process to verify the accuracy of the information disclosed, contacted Plaintiff and requested additional information and supporting documents. Upon review and analysis, it was found that invoices pertained to prior periods, and upon reviewing the purchase statements for those prior periods, it was found that Plaintiff had duplicated the input tax deduction. - In light of the foregoing, ZATCA amended the taxable purchases at a rate of (5%), in accordance with Article (49) of the Implementing Regulations of the VAT Law. 2. Imposition of a Fine for Submission of Incorrect Tax Return: In view of the outcome of the examination and assessment process for the tax period under dispute, a fine for submission of incorrect tax return was imposed, in accordance with Paragraph (1) of Article (42) of the Value Added Tax Law, which states: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due." Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response. Plaintiff also submitted a Reply stating the following: We hereby affirm that the company did not deduct purchase tax in prior periods. It appears to us that the auditor at ZATCA erred in excluding certain purchase invoices totaling a tax amount of SAR (53,663.29). To support the company's position, we enclose the purchase statement for the audit period and the invoices requested by the auditor, in addition to the tax return pertaining to the period. The company also requested the details of the assessment; however, ZATCA has not provided any relevant details despite our repeated requests. We raised this point in our objection letter and requested additional information. However, we have not received a response regarding how the excluded amount was calculated or derived from any specific invoice. Therefore, the company acknowledges that it has deducted the input tax on the purchase invoices for February 2020 only once. We, to support the company's position, enclose a comprehensive detailed statement of purchases for 2018/2019 and January 2020 (Attachment No. 2) to demonstrate that the purchases were deducted only once. We also inform you that these tax invoices represent business expenses incurred in the course of engaging in taxable supplies, thus fulfilling one of the fundamental conditions for input tax deduction pursuant to Article (49) of the Implementing Regulations. Furthermore, these invoices fully comply with the requirements of Article 53(5) of the Implementing Regulations. Plaintiff



concluded their Reply by requesting the acceptance of the case and nullification of the additional tax imposed by ZATCA concerning the re-evaluated VAT amount of SAR (53,663.29) for the February 2020 tax return, along with the associated fines.

On Wednesday, 25/05/2022, the session was held via video conference in accordance with the remote virtual litigation procedures based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. When calling litigants, Ms., Saudi National under National ID No. (.....), appeared under PoA No. (...). However, the validity of their representation was not established before the Department in accordance with the Law of Advocacy, its Implementing Regulations, and amendments. Also present was ... (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated ../03/1442 AH, issued by the Deputy Governor for Legal Affairs, and upon asking Defendant's representative for a response, he stated that he stands by the memorandum of reply submitted in case file and asserts case validity for adjudication according to Article (20) of the Tax Dispute and Violation Committee Procedures. Consequently, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, side by side with relevant laws and regulations.

In Form, Since Plaintiff filed this Case for the purpose of challenging the final reassessment results for the VAT period of February 2020, as well as the resulting fines, based on Value Added Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits, the Department, upon examination of the case documents and the responses of both parties after granting them sufficient time to present their arguments and evidence, established that Defendant issued its decision regarding the final reassessment for the VAT period of February 2020 and imposed a fine for submission of incorrect tax return resulting from the reassessment. The following has been determined:

First: Standard-Rated Local Taxable Purchases (5%): It appears that the dispute centers around Defendant's exclusion of an amount of SAR 1,073,265.85 from the purchases item, based on repeated claims for purchases according to the final assessment notice. Plaintiff objects to Defendant's re-assessment decision, which included the exclusion of amounts reported by Plaintiff. The fundamental principle is that the assessment should include the basis for calculation, in accordance with Paragraph (2) of Article (64) of the Implementing Regulations of the Value Added Tax Law, which states: "An assessment issued by the Authority shall at a minimum show the Net Tax payable, the due date for payment, and the basis for calculation of the assessment. The assessment shall notify the Taxable Person of its rights to appeal the assessment". Whereas Defendant did not provide a "list of the disputed invoices" for clarification, nor did it specify the 'prior period' during which it alleges Plaintiff deducted those invoices, it merely asserted that "it was evident that "Plaintiff had repeatedly deducted input tax". This lack of clarity regarding the



basis for calculating the assessment issued by Defendant, and non-compliance with the aforementioned article, leads the Department to accept Plaintiff's claim on this matter.

Second: The Department, with respect to the fine for submission of incorrect tax return, concluded to annul Defendant's action regarding the final reassessment of the tax period in question, and since the fine under dispute is a result of and linked to this reassessment, pursuant to Paragraph (1) of Article (42) of the VAT Law, which states: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due". Accordingly, the Department concludes to accept Plaintiff's claim and nullify the fine in question.

In light of the above the Grounds and after deliberation, the Department unanimously decided the following:

Decision:

- Annul Defendant's (ZATCA) decision regarding the final assessment for the VAT period of February 2020, as well as the associated fines.

This decision was issued in the presence of both litigants. in accordance with Article (21) of Tax Dispute and Violation Committee Procedures. The date on which the decision was entered into the e-system of the General Secretariat of Zakat, Tax, and Customs Committees shall be considered the date of decision delivery. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt, whereafter, in the event that no appeal is submitted, the decision shall be final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

Third Department to Adjudicate Value Added Tax
Violations and Disputes Riyadh

Decision No. (VTR-2022-1028)
Delivered in Case No. (V-
71159-2021)

Key words:

Value Added Tax - Final Tax Assessment - Sales Invoices with Handwritten Return Numbers - Purchase Invoice Not Eligible for Deduction - Standard-Rated Local Taxable Sales - Case is Established Upon the Existence of the Element of Contestation; If It Is Absent or Ceases to Exist at Any Stage of the Case, the Contestation Terminates - A Taxable Person May Deduct Input Tax in a Tax Period Subsequent to the Period Including the Date of Supply - Statutory Period.

Abstract

Plaintiff seeks annulment of ZATCA's decision regarding the final assessment for the VAT period of Q4 2020 and Q1 2021, as well as nullification of fines resulting from the reassessment. Thereafter, ZATCA responded as follows: In form, it was noted that Plaintiff prepared a draft objection to the tax periods but did not complete the electronic procedures. On merits, it was found that Plaintiff did not issue credit notes but rather merely sales invoices with handwritten return numbers. Furthermore, it was found that there were electricity bills lacking Plaintiff's name, which were consequently excluded, as well as a receipt voucher that did not meet the statutory requirements of a tax invoice and was also excluded. Additionally, a purchase invoice was identified that is not eligible for deduction. The Department established the following: First: As for Q4 2020: (Standard-Rated Local Taxable Sales) Item: It was established to the Department that Plaintiff submitted invoices to substantiate sales returns (which do not qualify as credit notes), and failed to submit the actual credit notes related to those returns. The Department, concerning standard-rated local taxable purchases, and given that Defendant, in its final memorandum of reply, accepted the two invoices submitted by Plaintiff and requested a ruling on the dismissal of the case with respect thereto, concludes to confirm settlement of the dispute in this regard, along with any related fines. Moreover, the Department, in relation to the remaining purchases, and given that Plaintiff did not provide evidence to substantiate their claim, concludes to dismiss Plaintiff's claim in this regard. Fines for Submission of Incorrect Tax Return and Late Payment for VAT Period of Q4 2020 and Q1 2021: Whereas the Department affirmed the validity of Defendant's decision concerning the final reassessment of the VAT period in question, and given that the contested aforementioned fines are a direct result of and intrinsically linked to that reassessment. Therefore, related matters follow the same legal ruling. Second: Regarding Q1 2021: The Department, concerning standard-rated local taxable sales, established that Plaintiff submitted invoices to substantiate sales returns (which do not qualify as credit notes), and failed to submit the actual credit notes related to those returns. Accordingly, the Department concludes to dismiss Plaintiff's claim in this regard. Whereas, Defendant, regarding standard-rated local taxable purchases, excluded certain purchases due to their failure to meet the input tax deduction requirements, and given that Plaintiff argued that the electricity bills bore the name of the property owner. However, as Plaintiff failed to provide sufficient evidence to support their claim, the Department therefore concludes to dismiss Plaintiff's claim in this regard. this Department ruled to confirm settlement



of the dispute regarding the addition of an amount of SAR (7,306.43) to the item of standard-rated local taxable purchases in Q4 2020, as well as the associated fines, and dismiss all other requests. The decision is considered final and enforceable.

Instruments:

- Article (112) of [the Law of Civil Procedures promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)
- Article (42/1) of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- Articles (49/8), (50), (53/5), and (54/1 & 3) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of Directors of the General Authority of Zakat and Income -formerly- No. \(3839\) dated 14/12/1438 AH.](#)

Facts:



Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Sunday, 12/06/2022, the Third Department for Adjudication of VAT Violations and Disputes in Riyadh, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Order No. (17218) dated 27/03/1442 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 16/09/2021.

Facts of this case are summarized that Plaintiff (...), holder of National ID No. (...), in his capacity as the owner of (...) Establishment for Trading, CR No. (...), filed a statement of claim, challenging Defendant's decision regarding the final assessment for the VAT period of Q4 2020 and Q1 2021, as well as the reassessment fines, and requesting annulment of the decision along with the imposed fines.

Having presented the statement of claim to Defendant, ZATCA, it responded as follows: In form, ZATCA stated that Plaintiff prepared a draft objection to the tax periods but did not complete the electronic procedures, resulting in its automatic annulment on 02/09/2021. On merits: ZATCA conducted a reassessment, which resulted in: 1. Amendment of Standard-Rated Local Taxable Sales (15%) for the Tax Periods Under Dispute: It was demonstrated that Plaintiff did not issue credit notes but rather merely sales invoices with handwritten return numbers. In light of the foregoing, ZATCA amended the aforementioned item, in accordance with Article (54) of the Implementing Regulations of the VAT Law. 2. Amendment of Standard-Rated Local Taxable Purchases (15%) for the Tax Periods Under Dispute: It was found that there were electricity bills lacking Plaintiff's name, which were consequently excluded, as well as a receipt voucher that did not meet the statutory requirements of a tax invoice and was also excluded. Additionally, a purchase invoice was identified that is not eligible for deduction. The item was amended in accordance with Articles (50) and (53/5) of the Implementing Regulations of the VAT Law. 3. Imposition of Fines for Submission of Incorrect Tax Return and Late Payment for the Tax Periods Under Dispute: As a result of the examination and assessment process, a fine for submission of incorrect tax return was imposed, pursuant to Article (42/1) of the VAT Law. Moreover, a late payment fine was imposed in accordance with Article (43) of the VAT Law. Defendant's representative concluded his memorandum by requesting case inadmissibility in form, and, alternatively, dismissal on merits. This concludes Defendant's response.

Plaintiff also submitted a memorandum of reply, stating that ZATCA requested a bank guarantee. Upon this request being made, it was found that the bank account had been suspended. ZATCA, regarding amendment of standard-rated taxable sales, disallowed Plaintiff's right to deduct the tax



on sales returns, as Plaintiff had submitted the original sales invoices to ZATCA, on which 'return' and the return number were written. Furthermore, ZATCA did not afford Taxpayer the opportunity to submit the corresponding credit notes. Regarding the amendment of standard-rated taxable purchases, specifically concerning the electricity bill, such bill is issued in the name of the property owner, not the lessee. The lease agreement, provided to ZATCA by the owner whose name is on the electricity bill, stated that the lessee is the party responsible for payment. As for the lease bond, the lease agreement was presented to ZATCA along with a supporting document issued by the lessor, which is a commercially recognized document for lease agreements. However, ZATCA did not grant us the opportunity to provide clarification or submit the invoice, especially since it is in our possession. ZATCA, with respect to fines for submission of incorrect tax return and late payment, did not levy a fine of 50% on the outstanding debit tax amount. Instead, it imposed a rate of 50% on the difference between the credit balance and the debit balance, resulting in an inequitable fine amount.

On Sunday, 15/05/2022, the session was convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to case, Plaintiff appeared in their own capacity, and (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated .../03/1442 AH, issued by the Deputy Governor for Legal Affairs. Plaintiff, at the beginning of the session, stated that the bank guarantee was an impediment to their completion of the objection before ZATCA. They further added that they request a continuance to submit all documentary evidence supporting their claims in the tax return, specifically concerning sales returns and the purchases item. On the other hand, Defendant's representative commented on this by stating that their representative raises a formal defense, and that their representative excluded purchases and sales returns due to Plaintiff's failure to substantiate validity thereof. Therefore, the Department resolved to adjourn the case to May 29th at 5:00 PM, on the condition that Plaintiff submits the documents for which the adjournment was granted no later than May 19th. Defendant shall review the submitted documents and provide its response no later than May 25th. Should either party fail to meet these deadlines without a justifiable excuse accepted by the Department, it shall be considered a default in accordance with Article (112) of the Law of Civil Procedures.

Additionally, Plaintiff submitted a one-page explanatory memorandum, the content of which did not deviate from what was previously presented.

On Sunday, 29/6/2022, the session was held via video conference in accordance with the remote video litigation procedures based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to case, Plaintiff/ (Saudi National) under National ID No. (...) appeared, and (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated .../03/1442 AH, issued by the Deputy Governor for Legal Affairs. Plaintiff, at the beginning of the session, submitted a set of documents along with a memorandum. Having questioned regarding the lack of response to the memorandum attached in the case file, Defendant's representative responded that the submitted documents exceed one hundred pages and requested a further continuance to respond to Plaintiff's attached memorandum. Accordingly, the Department decided to adjourn the hearing until June 12, 2022, at 6:00 PM, with the condition that Defendant submits a memorandum of reply before 01/06/2022.

Plaintiff also submitted a Reply stating the following: ZATCA, having reviewed the submissions provided by Plaintiff following the continuance granted by the Department and studied their contents, hereby summarizes its response as follows: ZATCA initially affirms that its decision to reassess the period under objection was limited to the items of standard-rated local taxable purchases and the amendment of standard-rated taxable sales. 1. ZATCA, regarding the amendment of standard-rated taxable sales for the periods under dispute and upon reviewing the



documents submitted by Plaintiff following the continuance granted by the Department, would like to first point out that Plaintiff, during the examination stage, provided sales invoices with only handwritten return numbers and did not issue credit notes as stipulated by the Implementing Regulations of the VAT Law, leading to exclusion thereof due to non-compliance with the conditions outlined in Article (54) of such Regulations. The documents submitted by Plaintiff in the case file consisted solely of return invoices, without the inclusion of the corresponding original invoices. Relying solely on sales return invoices, without the original invoices to substantiate their claims, is not permissible. Therefore, since Plaintiff failed to attach the correct documents, ZATCA reiterates the validity and soundness of its decision, based on Article (54) of the Implementing Regulations of the VAT Law.

2. It has been established, regarding the standard-rated taxable purchases for Q4 2020, upon examining the documents provided by Plaintiff, that the bills submitted by Plaintiff, for which a deduction is claimed, consist of two electricity bills (Bill No. ... amounting to SAR (4,012.01), and Bill No. ... amounting to SAR (3,294.42), totaling SAR (7,306.43)). It was also noted that Plaintiff rectified the error that led to the exclusion of such purchases. Consequently, given Plaintiff's submission of the electricity bills, payment invoices, and the contract signed between Plaintiff and the lessor, we found, upon reviewing all of which, that they are all valid and meet the deduction requirements after comparing the electricity bills with the payment invoices, as well as after reviewing the attached contracts between the taxpayer and the lessor, which commenced on 01/01/2018, for a period of three years. Therefore, the deduction of these two invoices is approved. - Plaintiff submitted a purchase invoice from the supplier (... Company) claiming a deduction. ZATCA, upon reviewing the invoice, found it to be the same document submitted during the examination stage, albeit with partial modifications. Despite these modifications, the invoice remains non-compliant with the required conditions as it lacks the amount of tax paid and the tax rate. Accordingly, ZATCA reaffirms the validity of its decision to reject the document based on Paragraph (5) of Article (53) of the Implementing Regulations of the VAT Law.

3. It was found, regarding the standard-rated taxable purchases for Q1 2021, upon examination of the documents submitted by Plaintiff, that the invoices provided were issued by the electricity company. Plaintiff attached the electricity bills, payment invoices, and the contract signed between Plaintiff and the lessor. Upon reviewing and comparing these documents, it was noted that the contract has a term of three (3) years, commencing on 01/01/ 2018, and expiring at the end of 2020. However, the taxpayer is claiming an input tax deduction related to Q1 2021. Consequently, given Plaintiff's failure to attach any addendum to the contract to substantiate the continuation of business operations between them and the lessor, we deem ZATCA's action to be correct, based on Paragraph (5) of Article (53) of the Implementing Regulations of the VAT Law.

Defendant's representative concluded their memorandum with the following requests: 1. A ruling on the dismissal of the case with respect to Plaintiff's claim for deduction of purchases related to the electricity bills totaling SAR (7,306.43), as detailed above, for Q4 2020. 2. Rejection of all other claims requested by Plaintiff for the reasons outlined above. This concludes Defendant's response.

On Sunday, 12/06/2022, the session was held via video conference in accordance with remote video litigation procedures based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to case, Plaintiff/ (Saudi National) under National ID No. (...) appeared, and (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .../03/1442 AH, issued by the Deputy Governor for Legal Affairs. ZATCA's representative, at the beginning of the session, reviewed the final submitted memorandum of reply, upon presenting which, Plaintiff responded that, concerning sales returns, they had submitted credit notes and were unaware of the requirement to also provide the associated sales invoices. Furthermore, they stated that, regarding the purchases item, the lease agreement is a written contract, not an electronic one, and they are awaiting the landlord's approval to execute an electronic agreement. When asked if either party wished to add anything further, both parties stated



that they would rely on what has already been submitted. Accordingly, the Department decided to adjourn the session for deliberation and issue a decision.

Grounds



The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, side by side with relevant laws and regulations.

In Form, Since Plaintiff filed this Case for the purpose of challenging Defendant's decision regarding the final assessment for the VAT period of Q4 2020 and Q1 2021, as well as the reassessment fines, based on Value Added Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes as per Royal Decree No. (M/113) dated 2/11/1438 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits, the Department, upon examination of the case documents and the responses of both parties after granting them sufficient time to present their arguments and evidence, established that Defendant issued its decision regarding the final assessment for the VAT period of Q4 2020 and Q1 2021 and imposed fines for submission of incorrect tax return and late payment for the tax periods under dispute, according to the following:

First: As for Q4 2020:

- ١- (Standard-Rated Local Taxable Sales): It appears that the dispute centers around Defendant's cancellation of the sales adjustments, as per ZATCA's assessment notice for the tax return pertaining to Q4 2020, due to Plaintiff's failure to issue credit notes. In contrast, Plaintiff contends the existence of credit notes and argues that Defendant did not grant them an opportunity to submit thereof. The Department, upon reviewing the case file and the submissions made—after granting both parties sufficient time to present their arguments—, determined that Plaintiff submitted invoices to substantiate sales returns (which do not qualify as credit notes), and failed to submit the actual credit notes related to those returns. Paragraph (1) of Article (54) of the Implementing Regulations of the VAT Law provides: "In the event that one of the circumstances in the first Paragraph of Article Forty of these Regulations occurs after a Tax Invoice has been issued and the amount shown as Tax charged in that Tax Invoice exceeds the true value of the Supply, the Taxable Person who has made the Supply shall provide the Customer with a credit note." Paragraph (3) of the same Article further provides: "In cases other than those set forth in Paragraph (1) of Article Forty of these Regulations, a Taxable Person who issues a Tax Invoice and becomes aware of an error on the Tax Invoice in their information or that of the Customer, the Taxable Person may issue a debit or credit note —as the case may be— to the Customer correcting the erroneous information in that Tax Invoice, provided that both the Supplier and Customer retain a copy of the Tax Invoice and debit or credit note issued pursuant to this provision in order to satisfy their [respective] obligations under the Law and these Regulations." Consequently, compliance with the aforementioned articles by Plaintiff has not been established. For the foregoing reasons, the Department concludes to dismiss Plaintiff's claim in this aspect.

- ٢- Regarding Standard-Rated Local Taxable Sales: It is evident that the dispute centers on Defendant's exclusion of certain purchases due to their failure to meet the input tax deduction



requirements. Regarding the electricity bills for which Plaintiff claims a deduction, and considering that a case is established upon the existence of the element of contestation; if it is absent or ceases to exist at any stage of the case, it becomes necessary to rule on the termination of the contestation. Furthermore, Defendant, in its final memorandum of reply, accepted the two electricity bills submitted by Plaintiff (Bill No. ... amounting to SAR (4,012.01), and Bill No. ... amounting to SAR (3,294.42), totaling SAR (7,306.43), and requested a ruling on the dismissal of the case with respect thereto. Therefore, the Department concludes to confirm settlement of the dispute in this regard, along with any related fines.

Regarding the remaining purchases, and given that Plaintiff did not provide evidence to substantiate their claim, and considering the provisions of Paragraph (8) of Article (49) of the Implementing Regulations of the VAT Law, which states: “A deduction of Input Tax may be made by a Taxable Person in a Tax Period subsequent to that Tax Period including the date of Supply, provided that the Taxable Person remains eligible to make such deduction under the other provisions of these Regulations. Input Tax may not be deducted in any period which falls more than five calendar years after the calendar year in which the Supply takes place”. In light of the foregoing, the Department satisfies to dismiss Plaintiff’s claim in this regard.

- ج- Fines for Submission of Incorrect Tax Return and Late Payment for VAT Period of Q4 2020: The Department concluded that Defendant's decision regarding the final reassessment of the tax period in question is valid, and since the associated fines under dispute are a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling, pursuant to Paragraph (1) of Article (42) of the VAT Law, which states: “Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due”. Furthermore, Article (43) of the VAT Law stipulates: “Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid.” Accordingly, the Department concludes to dismiss Plaintiff’s claim in this regard.

Second: Regarding Q1 2021:

- A. Item (Standard-Rated Local Taxable Sales): It appears that the dispute centers around Defendant’s cancellation of the sales adjustments, as per ZATCA’s assessment notice for the tax return pertaining to Q1 2021, due to Plaintiff’s failure to issue credit notes. In contrast, Plaintiff contends the existence of credit notes and argues that Defendant did not grant them an opportunity to submit thereof. The Department, upon reviewing the case file and the submissions made—after granting both parties sufficient time to present their arguments—, determined that Plaintiff submitted invoices to substantiate sales returns (which do not qualify as credit notes), and failed to submit the actual credit notes related to those returns. Paragraph (1) of Article (54) of the Implementing Regulations of the VAT Law provides: “In the event that one of the circumstances in the first Paragraph of Article Forty of these Regulations occurs after a Tax Invoice has been issued and the amount shown as Tax charged in that Tax Invoice exceeds the true value of the Supply, the Taxable Person who has made the Supply shall provide the Customer with a credit note.” Paragraph (3) of the same Article further provides: “In cases other than those set forth in Paragraph (1) of Article Forty of these Regulations, a Taxable Person who issues a Tax Invoice and becomes aware of an error on the Tax Invoice in their information or that of the Customer, the Taxable Person may issue a debit or credit note –as the case may be- to the Customer correcting the erroneous information in that Tax Invoice, provided that both the Supplier and Customer retain a copy of the Tax Invoice and debit or credit note issued pursuant to this provision in order to satisfy their [respective] obligations under the Law and these Regulations”. Consequently, Plaintiff’s compliance with the



forementioned articles has not been established. For the foregoing reasons, the Department concludes to dismiss Plaintiff's claim in this regard.

- B. Regarding Standard-Rated Local Taxable Purchases: It is evident that the dispute centers on Defendant's exclusion of certain purchases due to their failure to meet the input tax deduction requirements. Plaintiff argues that the name of the property owner appears on the electricity bills because the electricity company issues the invoices in the owner's name rather than the lessee's. Plaintiff further affirms that they provided ZATCA with the lease agreement, which includes the property owner's name as stated on the electricity bill, and explicitly stipulates that the lessee is the party responsible for the electricity consumption charges. In addition, Plaintiff indicated the existence of invoices related to the receipt voucher, for which Defendant allegedly did not grant Plaintiff an opportunity for justification or submission of the invoice, and given that Plaintiff did not present evidence to substantiate their claim, and considering the provisions of Paragraph (8) of Article (49) of the Implementing Regulations of the VAT Law, which states that: "A deduction of Input Tax may be made by a Taxable Person in a Tax Period subsequent to that Tax Period including the date of Supply, provided that the Taxable Person remains eligible to make such deduction under the other provisions of these Regulations". Input tax may not be deducted in any period after five years from the calendar year in which the supply occurred" For the foregoing reasons, the Department concludes to dismiss Plaintiff's claim in this regard.
- C. Fines for Submission of Incorrect Tax Return and Late Payment for VAT Period of Q1 2021: The Department concluded that Defendant's decision regarding the final reassessment of the tax period in question is valid, and since the associated fines under dispute are a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling, pursuant to Paragraph (1) of Article (42) of the VAT Law, which states: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due". Furthermore, Article (43) of the VAT Law stipulates: "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid." Accordingly, the Department concludes to dismiss Plaintiff's claim in this regard.

In light of the above the Grounds and after deliberation, the Department unanimously decided the following:

Decision:

First: Confirm settlement of the dispute regarding the addition of an amount of SAR (7,306.43) to the item of local taxable purchases in Q4 2020, as well as the associated fines.

Second: Reject other requests.

This decision was issued in the presence of both parties, and the date of depositing the decision in the e-system of the General Secretariat of Zakat, Tax and Customs Committees is considered the date of delivery of the decision. The parties to the case may request to appeal against the decision as per the law within thirty (30) days from the day following the date specified for its receipt, whereafter, the decision will be final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

Third Department to Adjudicate Value Added Tax
Violations and Disputes Riyadh

Decision No. (VTR-2022-1113)
Delivered in Case No. (V-
84768-2021)

Key words:

Value Added Tax – Final Reassessment – The Authority (ZATCA) may conduct a tax assessment of the Taxable Person regardless of the Submitted Tax Return – Standard-Rated Local Taxable Sales – Employee Benefits Guidance - Statutory Period.

Abstract

Plaintiff seeks annulment of ZATCA's decision regarding the final reassessment for the VAT period of July 2019, as well as the reassessment fines. In this regard, ZATCA responded by asserting its right to conduct a tax assessment of the Taxable Person regardless of the tax return submitted. ZATCA reviewed the contract concluded between Plaintiff and the client, which revealed violation of the stipulations of the employment contract, consequently subjecting the full amounts to the standard-rated sales category. -The Department established, with regard to the standard-rated local taxable sales, that the sales in dispute arose from a service agreement concluded between Plaintiff and its client, SAB, for the provision of personnel. Plaintiff argues that this contract pertains to the provision of labor services in exchange for a monthly commission fee for performing tasks and functions determined by SAB. Plaintiff further contends that a contractual relationship arises between SAB and the employees provided by Plaintiff to their clients. However, upon reviewing the Employee Benefits Guide, which stipulates that the supplying entity must be a licensed human resources company and/or possess a labor services (secondment) permit from Ajeer platform, or be a government entity, the Department concludes to dismiss Plaintiff's claim in this regard. Regarding the fines for submission of incorrect tax return and late payment, and given that the Department concluded to dismiss Plaintiff's claim challenging Defendant's decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fines under dispute are a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling. this Department ruled to: dismiss Plaintiff's case and consider the decision as final and enforceable.

Instruments:

- Articles (42.1) and (43) of [Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (9/6) and (14) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of Directors of the General Authority of Zakat and Income - formerly- No. \(3839\) dated 14/12/1438 AH.](#)

Facts:





Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Monday, 27/06/2022, the Third Department for Adjudication of VAT Violations and Disputes in Riyadh, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Order No. (17218) dated 27/03/1442 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 02/12/2021.

Facts of this case are summed up in that Plaintiff/ ... Company for Services, CR No. (...), represented by, holder of National ID No. (...), in his capacity as a representative under PoA No. (...), filed a statement of claim challenging Defendant's decision regarding the final reassessment for the VAT period of July 2019, as well as the fines resulting from the said reassessment, requesting annulment of such decision and the associated fines.

By presenting this to the Defendant, ZATCA submitted a response memorandum stating the following: ZATCA conducted the reassessment based on Paragraph (1) of Article (26) of the Value Added Tax Law, which states: "1. The Authority may conduct a tax assessment of a taxable person irrespective of the tax return filed by him". At the outset, ZATCA wishes to clarify to the honorable Committee the proper application of the tax transaction set out in Paragraph (6) of Article (9) of the Implementing Regulations of the VAT Law, which states: "6. Employed and other Persons in so far as they are bound to an employer by contract or by any other legal ties creating the relationship of employer and employee as regards working conditions, remuneration and the employer's liability, are not considered to be carrying on an Economic Activity for the purpose of registration under the Law and these Regulations". This clarification is provided in light of the necessary requirements for the application of the relevant provisions to the supplies made, considering the Regulations and relevant guides. The concept embodied in this article implies that an employee—or anyone in a similar capacity—is not considered to be engaged in economic activity with respect to the work performed as part of their employment. Consequently, Value Added Tax is not imposed on salaries and wages received by an employee under a fully integrated employment contract (work performance - remuneration - subordination), and such transaction is considered beyond the scope of Value Added Tax. All elements of the employment contract, in all its forms and aspects, must be fulfilled for a transaction to be considered beyond the scope of VAT. For instance, regarding the element of subordination, one indication of its fulfillment is that the employer is solely responsible for directing and determining the activities undertaken by the employee. If this element—along with the other required elements—is satisfied, the transaction qualifies to be treated as beyond the scope of VAT, and vice versa. With regard to the tax transaction in question, the contract concluded between Plaintiff and ... Bank involves the provision of personnel under the supervision of the bank. ZATCA, upon reviewing the contractual terms, found that Plaintiff ("Supplier") bears independent responsibility for determining the performance of services and maintains independent control over the personnel, pursuant to Article (32.3) of the contract (Annex 1). Accordingly, no employment relationship is established between the client and the personnel that would resemble that of an employee and an employer. For Value Added Tax purposes, the applicability of the elements of an employment contract between the borrowing entity and the seconded employee was verified to determine whether the transaction falls beyond the scope of VAT. ZATCA examined the contract concluded between Plaintiff and the client and found it to be inconsistent with the elements of an employment contract. Specifically, the element of subordination (in its various forms: supervision, direction, and responsibility) remains exclusively with the Plaintiff company. Based on the foregoing, ZATCA subjected the full amounts to the standard-rated sales category, in accordance with Article (14) of the Implementing Regulations of the VAT Law, which states "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course



of carrying on their Economic Activity”. Regarding the late payment and submission of incorrect tax return fines, a fine for submission of incorrect tax return was imposed, in accordance with Paragraph (1) of Article (42) of the Value Added Tax Law, which states: “Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due.” Accordingly, a late payment fine was imposed for the months following the disputed tax period, as previously explained, in accordance with Article (43) of the VAT Law, which provides: “Any person who fails to pay the tax due within the period specified by the Regulations shall be subject to a fine equal to 5% of the amount of the unpaid tax for each month or part thereof for which the tax is not paid”. Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response.

Plaintiff also submitted a memorandum of reply, which asserts that the company filed the case within the statutory period. On the merits of the case, Plaintiff argues that, based on the contract and all related documents, there exists a contractual relationship between the concerned employees and the bank in accordance with the Implementing Regulations and the Employee Benefits Guide. Plaintiff maintains that this relationship indeed exists through all five conditions specified by ZATCA, as outlined in the Guide. As for the point raised by ZATCA regarding the first condition, upon reviewing the contract and related documents, it is clear that all necessary conditions for an employer-employee contractual relationship are fully satisfied. In further confirmation of this, (...) British Bank clarified the relationship with the employees in question under a letter, which explains that all five conditions are fully met and that ... Bank has the sole authority to determine the activities and tasks related to the employees in question. We affirm that the contract encompasses all five conditions, based on Article (3.3)-P.31 thereof, in addition to the actual procedures between the company and ... Bank, which is further supported by other evidentiary annexes. Furthermore, Articles (4.1) and (4.2) of the contract explicitly and clearly refer to the financial details of the contract, including salaries and commissions. Therefore, ZATCA erred in its decision by relying on the absence of the element of subordination, which led to subjecting salaries and wages to VAT and imposing fines.

On Monday, 27/06/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order (26040) dated 21/04/1441 AH. Having called parties to case, ... Plaintiff's representative (Saudi National, under National ID No. (...)) appeared under PoA No. (...), ...attended..... (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated ../03/1442 AH, issued by the Deputy Governor for Legal Affairs. Having asked Plaintiff's representative regarding his case, he responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming contents of the memorandum of reply. When questioned regarding his response, Defendant's representative affirmed reliance on the arguments presented in the memorandum of reply. The Department thereafter reviewed Plaintiff company's purposes as stated in its Articles of Association, which did not include the provision of human resources. Upon questioning Plaintiff's representative whether they held a license from the competent authority for the provision of human resources, he responded negatively and further added that they provide employees with specialized expertise, which differs from the services offered by human resources companies. When asked if either party wished to add anything further, both parties stated that they would rely on what has already been submitted. Accordingly, the Department decided to adjourn the session for deliberation and issue a decision.





The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, side by side with relevant laws and regulations.

In Form, Since Plaintiff filed this Case for the purpose of challenging Defendant's final reassessment for the VAT period of July 2019, based on Value Added Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes as per Royal Decree No. (M/113) dated 2/11/1438 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits, having examined case papers and response of parties thereto after giving them sufficient time to express and submit necessary documents, the Department established that Defendant issued its decision regarding the final reassessment for the VAT period of July 2019, and imposed fines for submission of incorrect tax return and late payment. The following was determined:

First: Item (Standard-Rated Local Taxable Sales): The dispute lies in Defendant's decision to subject an amount of SAR (821,058.20) to the standard-rated sales category, with a tax of SAR (41,052.91), due to undisclosed sales in accordance with Article (14) of the Implementing Regulations of the VAT Law. The sales in question arise from a service agreement signed between Plaintiff and their client, ... British Bank, for the provision of personnel. Plaintiff argues that this contract pertains to the provision of labor services in exchange for a monthly commission fee for performing tasks and functions determined by the bank. Plaintiff further contends that a contractual relationship arises between the bank and the employees provided by Plaintiff to their clients, relying on the fulfillment of the elements outlined in the VAT Employee Benefits Guide. Specifically, first: The employees work in the capacity of bank employees, with the bank defining their duties and activities under its supervision. Second: The employees are treated as bank employees in terms of their tasks, working hours, vacations, and other matters, in accordance with the bank's internal policies. Third: The salaries, bonuses, and allowances for the employees are determined the Plaintiff's client (the bank). Fourth: The bank's approval is required for the hiring and termination of the employees. Fifth: As stipulated in the contract, the employees exclusively provide services to the bank. In addition, Plaintiff submitted a letter issued by their client dated 10/06/2021, a letter dated 09/03/2022, correspondence, copies of the agreement, a sample employment form, and a signed code of conduct specific to the bank (the client). Plaintiff emphasized that these documents confirm the existence of an employer-employee relationship arises with Plaintiff's client, .. British Bank. The Department, upon reviewing Plaintiff's AOA No. (88801), Version 2, dated 04/11/1442 AH, and CR No. (...), noted that Plaintiff's activities did not include the provision of personnel or labor services. Instead, their activity is limited to (repair and maintenance of telecommunication and radar stations and towers - extension of electrical wires - extension of communication wires - network extension - building maintenance service activities). Furthermore, upon reviewing the Employee Benefits Guide, which stipulates that the supplying entity must be a licensed human resources company and/or possess a labor services (secondment) permit from Ajeer platform, or be a government entity (as in privatization cases). Additionally, Article (14) of the Implementing Regulations of the VAT Law states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the



Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom..” For the foregoing reasons, the Department concludes to dismiss Plaintiff’s claim in this regard.

Second: The Department, regarding the fine for submission of incorrect tax return, concluded to dismiss Plaintiff’s claim challenging Defendant’s decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fine under dispute is a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling. Accordingly, it is evident that Plaintiff erred in submitting the tax return. Paragraph (1) of Article (42) of the Value Added Tax Law states: “Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due”. Accordingly, the Department concludes to dismiss Plaintiff’s claim in this regard.

Third: The Department, regarding the late payment fine, concluded to dismiss Plaintiff’s claim challenging Defendant’s decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fine under dispute is a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling. Accordingly, it is evident that Plaintiff delayed in submitting the tax return within the statutory period. Article (43) of the Value Added Tax Law states: “Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid.” Accordingly, the Department dismisses Plaintiff’s claim in this regard.

In light of the above the Grounds and after deliberation, the Department unanimously decided the following:

Decision:

- Dismiss Plaintiff Case.

This decision was issued in the presence of both parties, and the date of depositing the decision in the e-system of the General Secretariat of Zakat, Tax and Customs Committees is considered the date of delivery of the decision. The parties to the case may request to appeal against the decision as per the law within thirty (30) days from the day following the date specified for its receipt, whereafter, the decision will be final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

Third Department to Adjudicate Value Added Tax
Violations and Disputes Riyadh

Decision No. (VTR-2022-1128)
Delivered in Case No. (V-
84819-2021)

Key words:

Value Added Tax – Final Reassessment – The Authority (ZATCA) may conduct a tax assessment of the Taxable Person regardless of the Submitted Tax Return – Standard-Rated Local Taxable Sales – Employee Benefits Guidance - Statutory Period.

Abstract

Plaintiff seeks annulment of ZATCA's decision regarding the final reassessment for the VAT period of May 2020, as well as the reassessment fines. In this regard, ZATCA responded by asserting its right to conduct a tax assessment of the Taxable Person regardless of the tax return submitted. ZATCA reviewed the contract concluded between Plaintiff and the client, which revealed violation of the stipulations of the employment contract, consequently subjecting the full amounts to the standard-rated sales category. - The Department established, regarding the standard-rated local taxable sales, that the sales in question arise from a service agreement signed between Plaintiff and their client, ... Bank, for the provision of personnel. Plaintiff argues that this contract pertains to the provision of labor services in exchange for a monthly commission fee for performing tasks and functions determined by the bank. Plaintiff further contends that a contractual relationship arises between the bank and the employees provided by Plaintiff to their clients. However, upon reviewing the Employee Benefits Guide, which stipulates that the supplying entity must be a licensed human resources company and/or possess a labor services (secondment) permit from Ajeer platform, or be a government entity, the Department concludes to dismiss Plaintiff's claim in this regard. Regarding the fines for submission of incorrect tax return and late payment, and given that the Department concluded to dismiss Plaintiff's claim challenging Defendant's decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fines under dispute are a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling. this Department ruled to: Dismiss Plaintiff case, and consider the decision as final and enforceable.

Instruments:

- Articles (42.1) and (43) of [Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (9/6) and (14) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of Directors of the General Authority of Zakat and Income - formerly- No. \(3839\) dated 14/12/1438 AH.](#)

Facts:





Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Monday, 27/06/2022, the Third Department for Adjudication of VAT Violations and Disputes in Riyadh, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Order No. (17218) dated 27/03/1442 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 02/12/2021.

Facts of this case are summed up in that Plaintiff/ ... Company for Services, CR No. (...), represented by, holder of National ID No. (...), in his capacity as a representative under PoA No. (...), filed a statement of claim challenging Defendant's decision regarding the final reassessment for the VAT period of May 2020, as well as the fines resulting from the said reassessment, requesting annulment of such decision and the associated fines.

By presenting this to the Defendant, ZATCA submitted a response memorandum stating the following: ZATCA conducted the reassessment based on Paragraph (1) of Article (26) of the Value Added Tax Law, which states: "1. The Authority may conduct a tax assessment of a taxable person irrespective of the tax return filed by him". At the outset, ZATCA wishes to clarify to the honorable Committee the proper application of the tax transaction set out in Paragraph (6) of Article (9) of the Implementing Regulations of the VAT Law, which states: At the outset, ZATCA wishes to clarify to the honorable Committee the proper application of the tax transaction set out in Paragraph (6) of Article (9) of the Implementing Regulations of the VAT Law, which states: "6. Employed and other Persons in so far as they are bound to an employer by contract or by any other legal ties creating the relationship of employer and employee as regards working conditions, remuneration and the employer's liability, are not considered to be carrying on an Economic Activity for the purpose of registration under the Law and these Regulations". This clarification is provided in light of the necessary requirements for the application of the relevant provisions to the supplies made, considering the Regulations and relevant guides. The concept embodied in this article implies that an employee—or anyone in a similar capacity—is not considered to be engaged in economic activity with respect to the work performed as part of their employment. Consequently, Value Added Tax is not imposed on salaries and wages received by an employee under a fully integrated employment contract (work performance - remuneration - subordination), and such transaction is considered beyond the scope of Value Added Tax. All elements of the employment contract, in all its forms and aspects, must be fulfilled for a transaction to be considered beyond the scope of VAT. For instance, regarding the element of subordination, one indication of its fulfillment is that the employer is solely responsible for directing and determining the activities undertaken by the employee. If this element—along with the other required elements—is satisfied, the transaction qualifies to be treated as beyond the scope of VAT, and vice versa. With regard to the tax transaction in question, the contract concluded between Plaintiff and ... Bank involves the provision of personnel under the supervision of the bank. ZATCA, upon reviewing the contractual terms, found that Plaintiff ("Supplier") bears independent responsibility for determining the performance of services and maintains independent control over the personnel, pursuant to Article (32.3) of the contract (Annex 1). Accordingly, no employment relationship is established between the client and the personnel that would resemble that of an employee and an employer. For Value Added Tax purposes, the applicability of the elements of an employment contract between the borrowing entity and the seconded employee was verified to determine whether the transaction falls beyond the scope of VAT. ZATCA examined the contract concluded between Plaintiff and the client and found it to be inconsistent with the elements of an employment contract. Specifically, the element of subordination (in its various forms: supervision, direction, and responsibility) remains exclusively with the Plaintiff company. Based on the foregoing, ZATCA subjected the full amounts to the standard-rated sales category, in accordance with Article (14) of the Implementing Regulations of the VAT Law, which states "Without



prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity”. Regarding the late payment and submission of incorrect tax return fines, a fine for submission of incorrect tax return was imposed, in accordance with Paragraph (1) of Article (42) of the Value Added Tax Law, which states: “Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due.” Accordingly, a late payment fine was imposed for the months following the disputed tax period, as previously explained, in accordance with Article (43) of the VAT Law, which provides: “Any person who fails to pay the tax due within the period specified by the Regulations shall be subject to a fine equal to 5% of the amount of the unpaid tax for each month or part thereof for which the tax is not paid”. Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response.

Plaintiff also submitted a memorandum of reply, which asserts that the company filed the case within the statutory period. On the merits of the case, Plaintiff argues that, based on the contract and all related documents, there exists a contractual relationship between the concerned employees and the bank in accordance with the Implementing Regulations and the Employee Benefits Guide. Plaintiff maintains that this relationship indeed exists through all five conditions specified by ZATCA, as outlined in the Guide. As for the point raised by ZATCA regarding the first condition, upon reviewing the contract and related documents, it is clear that all necessary conditions for an employer-employee contractual relationship are fully satisfied. In further confirmation of this, ... (...) clarified the relationship with the employees in question under a letter, which explains that all five conditions are fully met and that ... Bank has the sole authority to determine the activities and tasks related to the employees in question. We affirm that the contract encompasses all five conditions, based on Article (3.3)-P.31 thereof, in addition to the actual procedures between the company and ... Bank, which is further supported by other evidentiary annexes. Furthermore, Articles (4.1) and (4.2) of the contract explicitly and clearly refer to the financial details of the contract, including salaries and commissions. Therefore, ZATCA erred in its decision by relying on the absence of the element of subordination, which led to subjecting salaries and wages to VAT and imposing fines.

On Monday, 27/06/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order (26040) dated 21/04/1441 AH. Having called parties to case, ... Plaintiff's representative (Saudi National, under National ID No. (...) appeared under PoA No. (...), ...attended..... (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .../03/1443 AH, issued by the Deputy Governor for Legal Affairs. Having asked Plaintiff regarding their case, they responded by adhering to the contents of the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees. When questioned regarding his response, Defendant's representative affirmed reliance on the arguments presented in the memorandum of reply. The Department thereafter reviewed Plaintiff company's purposes as stated in its Articles of Association, which did not include the provision of human resources. Upon questioning Plaintiff's representative whether they held a license from the competent authority for the provision of human resources, he responded negatively and further added that they provide employees with specialized expertise, which differs from the services offered by human resources companies. When asked if either party wished to add anything further, both parties stated that they would rely on what has already been submitted. Accordingly, the Department decided to adjourn the session for deliberation and issue a decision.



Grounds

The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, side by side with relevant laws and regulations.

In Form, Since Plaintiff filed this Case for the purpose of challenging Defendant's final reassessment for the VAT period of May 2020, based on Value Added Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes as per Royal Decree No. (M/113) dated 2/11/1438 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits, having examined case papers and response of parties thereto after giving them sufficient time to express and submit necessary documents, the Department established that Defendant issued its decision regarding the final reassessment for the VAT period of May 2020, and imposed fines for submission of incorrect tax return and late payment. The following was determined:

First: (Standard-Rated Local Taxable Sales) Item: The dispute lies in Defendant's decision to subject an amount of SAR (2,083,339.85) to the standard-rated sales category, with a tax of SAR (104,166.99), due to undisclosed sales in accordance with Article (14) of the Implementing Regulations of the VAT Law. The sales in question arise from a service agreement signed between Plaintiff and their client, ... Bank, for the provision of personnel. Plaintiff argues that this contract pertains to the provision of labor services in exchange for a monthly commission fee for performing tasks and functions determined by the bank. Plaintiff further contends that a contractual relationship arises between the bank and the employees provided by Plaintiff to their clients, relying on the fulfillment of the elements outlined in the VAT Employee Benefits Guide. Specifically, First: The employees work in the capacity of bank employees, with the bank defining their duties and activities under its supervision. Second: The employees are treated as bank employees in terms of their tasks, working hours, vacations, and other matters, in accordance with the bank's internal policies. Third: The salaries, bonuses, and allowances for the employees are determined the Plaintiff's client (the bank). Fourth: The bank's approval is required for the hiring and termination of the employees. Fifth: As stipulated in the contract, the employees exclusively provide services to the bank. In addition, Plaintiff submitted a letter issued by their client dated 10/06/2021, a letter dated 09/03/2022, correspondence, copies of the agreement, a sample employment form, and a signed code of conduct specific to the bank (the client). Plaintiff emphasized that these documents confirm the existence of an employer-employee relationship arises with Plaintiff's client, .. Bank. The Department, upon reviewing Plaintiff's AOA No. (...), Version 2, dated 04/11/1442 AH, and CR No. (...), noted that Plaintiff's activities did not include the provision of personnel or labor services. Instead, their activity is limited to (repair and maintenance of telecommunication and radar stations and towers - extension of electrical wires - extension of communication wires - network extension - building maintenance service activities). Furthermore, upon reviewing the Employee Benefits Guide, which stipulates that the supplying entity must be a licensed human resources company and/or possess a labor services (secondment) permit from Ajeer platform, or be a government entity (as in privatization cases). Additionally, Article (14) of the Implementing Regulations of the VAT Law states: "Without prejudice to Article



two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom.” For the foregoing reasons, the Department concludes to dismiss Plaintiff’s claim in this regard.

Second: The Department, regarding the fine for submission of incorrect tax return, concluded to dismiss Plaintiff’s claim challenging Defendant’s decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fine under dispute is a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling. Accordingly, it is evident that Plaintiff erred in submitting the tax return. Paragraph (1) of Article (42) of the Value Added Tax Law states: “Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due”. Accordingly, the Department concludes to dismiss Plaintiff’s claim in this regard.

Third: The Department, regarding the late payment fine, concluded to dismiss Plaintiff’s claim challenging Defendant’s decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fine under dispute is a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling. Accordingly, it is evident that Plaintiff delayed in submitting the tax return within the statutory period. Article (43) of the Value Added Tax Law states: “Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid.” Accordingly, the Department dismisses Plaintiff’s claim in this regard.

In light of the above the Grounds and after deliberation, the Department unanimously decided the following:

Decision:

Dismiss Plaintiff’s Case.

This decision was issued in the presence of both parties, and the date on which the decision was entered into the e-system of the General Secretariat of Zakat, Tax, and Customs Committees shall be considered the date of decision delivery. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt, whereafter, in the event that no appeal is submitted, the decision shall be final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

Third Department to Adjudicate Value Added Tax Violations and Disputes Riyadh

Decision No. (VTR-2022-1130)
Delivered in Case No. (V-84692-2021)

Key words:

Value Added Tax – Final Reassessment – Service Agreement – Fine for Submission of Incorrect Tax Return – Late Payment Fine.

Abstract

Plaintiff seeks annulment of ZATCA's decision regarding the final reassessment for the VAT period of March 2019, as well as nullification of the fines resulting from the reassessment. Thereafter, ZATCA responded as follows: ZATCA reviewed the contract concluded between Plaintiff and the client, which revealed violation of the stipulations of the employment contract, consequently subjecting the full amounts to the standard-rated sales category. - The Department established, regarding the standard-rated local taxable sales, that the sales in question arise from a service agreement signed between Plaintiff and their client, ... Bank, for the provision of personnel. The Department, upon reviewing Plaintiff's AOA, noted that Plaintiff's activities did not include the provision of personnel or labor services. Furthermore, upon reviewing the Employee Benefits Guide, which stipulates that the supplying entity must be a licensed human resources company and/or possess a labor services (secondment) permit from Ajeer platform, or be a government entity. In light of the aforementioned Grounds, the Department concludes to dismiss Plaintiff's claim in this regard. Regarding the fines for submission of incorrect tax return and late payment, and given that the Department concluded to dismiss Plaintiff's claim challenging Defendant's decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fines under dispute are a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling. Accordingly, the Department concludes to dismiss Plaintiff's claim in this regard. Therefore, the Department ruled to dismiss Plaintiff's case and consider the decision as final and enforceable.

Instruments:

- Articles (26/1), (42) and (43) of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (9/6) and (14) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of Directors of the General Authority of Zakat and Income - formerly- No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Tuesday, 26/07/2022, the Third Department for Adjudication of VAT Violations and Disputes in Riyadh, established under the Income Tax Law issued by Royal Decree No. (M/1)



dated 15/01/1425 AH as amended, and constituted pursuant to Royal Order No. (17218) dated 27/03/1442 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 01/12/2021.

Facts of this case are summed up in that Plaintiff/ ... Company for Services Ltd., CR No. (...), represented by, holder of National ID No. (...), in his capacity as a representative under PoA No. (...), filed a statement of claim challenging Defendant's decision regarding the final reassessment for the VAT period of March 2019, as well as the fines resulting from the said reassessment, requesting annulment of such decision and the associated fines.

By presenting this to the Defendant, ZATCA submitted a response memorandum stating the following: ZATCA conducted the reassessment based on Paragraph (1) of Article (26) of the Value Added Tax Law, which states: "1. The Authority may conduct a tax assessment of a taxable person irrespective of the tax return filed by him". At the outset, ZATCA wishes to clarify to the honorable Committee the proper application of the tax transaction set out in Paragraph (6) of Article (9) of the Implementing Regulations of the VAT Law, which states: "6. Employed and other Persons in so far as they are bound to an employer by contract or by any other legal ties creating the relationship of employer and employee as regards working conditions, remuneration and the employer's liability, are not considered to be carrying on an Economic Activity for the purpose of registration under the Law and these Regulations". This clarification is provided in light of the necessary requirements for the application of the relevant provisions to the supplies made, considering the Regulations and relevant guides. The concept embodied in this article implies that an employee—or anyone in a similar capacity—is not considered to be engaged in economic activity with respect to the work performed as part of their employment. Consequently, Value Added Tax is not imposed on salaries and wages received by an employee under a fully integrated employment contract (work performance - remuneration - subordination), and such transaction is considered beyond the scope of Value Added Tax. All elements of the employment contract, in all its forms and aspects, must be fulfilled for a transaction to be considered beyond the scope of VAT. For instance, regarding the element of subordination, one indication of its fulfillment is that the employer is solely responsible for directing and determining the activities undertaken by the employee. If this element—along with the other required elements—is satisfied, the transaction qualifies to be treated as beyond the scope of VAT, and vice versa. With regard to the tax transaction in question, the contract concluded between Plaintiff and ... Bank involves the provision of personnel under the supervision of the bank. ZATCA, upon reviewing the contractual terms, found that Plaintiff ("Supplier") bears independent responsibility for determining the performance of services and maintains independent control over the personnel, pursuant to Article (32.3) of the contract (Annex 1). Accordingly, no employment relationship is established between the client and the personnel that would resemble that of an employee and an employer. For Value Added Tax purposes, the applicability of the elements of an employment contract between the borrowing entity and the seconded employee was verified to determine whether the transaction falls beyond the scope of VAT. ZATCA examined the contract concluded between Plaintiff and the client and found it to be inconsistent with the elements of an employment contract. Specifically, the element of subordination (in its various forms: supervision, direction, and responsibility) remains exclusively with the Plaintiff company. Based on the foregoing, ZATCA subjected the full amounts to the standard-rated sales category, in accordance with Article (14) of the Implementing Regulations of the VAT Law, which states "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity". Regarding the late payment and submission of incorrect tax return fines, a fine for submission of incorrect tax return was imposed, in accordance with Paragraph (1) of Article (42) of the Value Added Tax Law, which states: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with



the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due.” Accordingly, a late payment fine was imposed for the months following the disputed tax period, as previously explained, in accordance with Article (43) of the VAT Law, which provides: “Any person who fails to pay the tax due within the period specified by the Regulations shall be subject to a fine equal to 5% of the amount of the unpaid tax for each month or part thereof for which the tax is not paid”. Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response.

Plaintiff also submitted a memorandum of reply, which asserts that the company filed the case within the statutory period. On the merits of the case, Plaintiff argues that, based on the contract and all related documents, there exists a contractual relationship between the concerned employees and the bank in accordance with the Implementing Regulations and the Employee Benefits Guide. Plaintiff maintains that this relationship indeed exists through all five conditions specified by ZATCA, as outlined in the Guide. As for the point raised by ZATCA regarding the first condition, upon reviewing the contract and related documents, it is clear that all necessary conditions for an employer-employee contractual relationship are fully satisfied. In further confirmation of this, ... (...) clarified the relationship with the employees in question under a letter, which explains that all five conditions are fully met and that ... Bank has the sole authority to determine the activities and tasks related to the employees in question. We affirm that the contract encompasses all five conditions, based on Article (3.3)-P.31 thereof, in addition to the actual procedures between the company and ... Bank, which is further supported by other evidentiary annexes. Furthermore, Articles (4.1) and (4.2) of the contract explicitly and clearly refer to the financial details of the contract, including salaries and commissions. Therefore, ZATCA erred in its decision by relying on the absence of the element of subordination, which led to subjecting salaries and wages to VAT and imposing fines.

On Tuesday, 26/07/2022, the session was convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Order (26040) dated 21/04/1441 AH. Having called parties to case, Plaintiff neither their representative appeared despite being legally notified, and Mr.... (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated ../10/1443 AH, issued by the Deputy Governor for Legal Affairs. Having asked Defendant's representative about his response, he responded by adhering to contents of the memorandum of reply and for the validity to adjudicate the case, in accordance with Article (20) of Tax Dispute and Violation Committee Procedures. Consequently, the Department decided to adjourn the session for deliberation.

Grounds

After due examination, and having taken cognizance of the case papers, and reviewed the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) of 03/05/1438 AH, the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by the Minister of Finance's Decision No. (1535) of 11/06/1425 AH, as amended, the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by the Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) of 14/12/1438 AH, as amended, and the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH and the relevant laws and regulations, the Department concluded that:

In Form, Since Plaintiff filed this Case for the purpose of challenging Defendant's final reassessment for the VAT period of March 2019, based on Value Added Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within the jurisdiction of the



Committee for Resolution of Income Tax Violations and Disputes as per Royal Decree No. (M/113) dated 2/11/1438 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits: having examined case papers and response of parties thereto after giving them sufficient time to express and submit necessary documents, the Department established that Defendant issued its decision regarding the final reassessment for the VAT period of March 2019, and imposed fines for submission of incorrect tax return and late payment. The following was determined:

First: (Standard-Rated Local Taxable Sales) Item: The dispute lies in Defendant's decision to subject an amount of SAR (1,054,917.04) to the standard-rated sales category, with a tax of SAR (52,745.85), due to undisclosed sales in accordance with Article (14) of the Implementing Regulations of the VAT Law. The sales in question arise from a service agreement signed between Plaintiff and their client, ... Bank, for the provision of personnel. Plaintiff argues that this contract pertains to the provision of labor services in exchange for a monthly commission fee for performing tasks and functions determined by the bank. Plaintiff further contends that a contractual relationship arises between the bank and the employees provided by Plaintiff to their clients, relying on the fulfillment of the elements outlined in the VAT Employee Benefits Guide. Specifically, First: The employees work in the capacity of bank employees, with the bank defining their duties and activities under its supervision. Second: The employees are treated as bank employees in terms of their tasks, working hours, vacations, and other matters, in accordance with the bank's internal policies. Third: The salaries, bonuses, and allowances for the employees are determined the Plaintiff's client (the bank). Fourth: The bank's approval is required for the hiring and termination of the employees. Fifth: As stipulated in the contract, the employees exclusively provide services to the bank. In addition, Plaintiff submitted a letter issued by their client dated 10/06/2021, a letter dated 09/03/2022, correspondence, copies of the agreement, a sample employment form, and a signed code of conduct specific to the bank (the client). Plaintiff emphasized that these documents confirm the existence of an employer-employee relationship arises with Plaintiff's client, .. Bank. The Department, upon reviewing Plaintiff's AOA No. (...), Version 2, dated 04/11/1442 AH, and CR (No. (...), noted that Plaintiff's activities did not include the provision of personnel or labor services. Instead, their activity is limited to (repair and maintenance of telecommunication and radar stations and towers - extension of electrical wires - extension of communication wires - network extension - building maintenance service activities). Furthermore, upon reviewing the Employee Benefits Guide, which stipulates that the supplying entity must be a licensed human resources company and/or possess a labor services (secondment) permit from Ajeer platform, or be a government entity (as in privatization cases). Additionally, Article (14) of the Implementing Regulations of the VAT Law states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom.." For the foregoing reasons, the Department concludes to dismiss Plaintiff's claim in this regard.

Second: The Department, regarding the fine for submission of incorrect tax return, concluded to dismiss Plaintiff's claim challenging Defendant's decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fine under dispute is a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling. Accordingly, it is evident that Plaintiff erred in submitting the tax return. Paragraph (1) of Article (42) of the Value Added Tax Law states: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to



(50%) of the value of the difference between the calculated Tax and the Tax due”. Accordingly, the Department concludes to dismiss Plaintiff’s claim in this regard.

Third: The Department, regarding the late payment fine, concluded to dismiss Plaintiff’s claim challenging Defendant’s decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fine under dispute is a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling. Accordingly, it is evident that Plaintiff delayed in submitting the tax return within the statutory period. Article (43) of the Value Added Tax Law states: “Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid.” Accordingly, the Department dismisses Plaintiff’s claim in this regard.

In light of the above the Grounds and after deliberation, the Department unanimously decided the following:

Decision:

- Dismiss Plaintiff Case.

This decision was issued in the presence of both parties, and the date of depositing the decision in the e-system of the General Secretariat of Zakat, Tax and Customs Committees is considered the date of delivery of the decision. The parties to the case may request to appeal against the decision as per the law within thirty (30) days from the day following the date specified for its receipt, whereafter, the decision will be final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

Third Department to Adjudicate Value Added Tax
Violations and Disputes Riyadh

Decision No. (VTR-2022-1169)
Delivered in Case No. (V-
85180-2021)

Key words:

Value-Added Tax – Final Reassessment – Failure to Meet Input Tax Deduction Requirements – Late Payment Fine – Fine for Submission of Incorrect Tax Return – Standard-Rated Local Taxable Purchases – Discrepancy Between Reported Purchases and Purchase Statement – Invoice Deficiencies – Statutory Period.

Abstract

Plaintiff seeks annulment of ZATCA's decision regarding the final reassessment for the VAT period of Q3 2020, as well as nullification of the reassessment fines. Thereafter, ZATCA responded as follows: ZATCA examined Taxpayer's return and found that Plaintiff failed to meet the input tax deduction requirements, as they failed to provide the documents and invoices substantiating their entitlement to the deduction. As a result, the reported purchases were excluded, and accordingly, a late payment fine was imposed for the months following the disputed tax period. - The Department, concerning standard-rated local taxable purchases, established that the reported purchases did not match the purchase statement, and the invoices submitted by Plaintiff did not meet the tax invoice requirements, as TIN was incorrect, and the supplier's and customer's addresses were missing. Moreover, Plaintiff failed to submit any supporting documents to address the deficiencies in the invoices, such as the supplier's account or reconciliation. In light of the foregoing, the Department concludes to dismiss Plaintiff's claim in this regard. Regarding the fines for submission of incorrect tax return and late payment, and given that the Department concluded to dismiss Plaintiff's claim challenging Defendant's decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fines under dispute are a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling. Accordingly, the Department ruled to dismiss Plaintiff's case and consider the decision as final and enforceable.

Instruments:

- Article (48/1) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Articles (26/1), (42/1), and (43) of [Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 H](#)
- Articles (49), (53/5), (64/1) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of Directors of the General Authority of Zakat and Income -formerly- No. \(3839\) dated 14/12/1438 AH.](#)

Facts:





Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Sunday, 26/06/2022, the Third Department for Adjudication of VAT Violations and Disputes in Riyadh, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/06/1425 AH as amended, and constituted pursuant to Royal Order No. (17218) dated 27/03/1442 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 06/12/2021.

Facts of this case are summarized that Plaintiff (...), holder of National ID No. (...), in his capacity as the owner of (...) Gas Station, CR No. (...), filed a statement of claim, in relation to purchases item, challenging Defendant's decision regarding the final assessment for the VAT period of Q3 2020, as well as the reassessment fines, and requesting annulment of the decision along with the imposed fines.

By presenting this to the Defendant, ZATCA submitted a response memorandum stating the following: It is evident, upon reviewing Plaintiff's statement of claim and the contested items, that the objection is limited to the amendment issued by ZATCA following the reassessment for the aforementioned tax period and the resulting fines. Accordingly, ZATCA summarizes its response as follows: ZATCA examined Taxpayer's return for the aforementioned tax period, in accordance with Paragraph (1) of Article (26) of the Value Added Tax Law, which states: "1. The Authority may make a Tax assessment of a Taxable Person irrespective of a Tax Return filed by him", and Paragraph (1) of Article (64) of the Implementing Regulations of the VAT Law, which stipulates: "ZATCA may make an assessment of the VAT obligations of a Person in respect of one or more Tax Periods." As a result, the following actions were taken: First: Exclusion of Purchases Item: We hereby inform that Plaintiff presented their return for the tax period in question, disclosing standard-rated taxable purchases for the aforementioned tax period. As ZATCA conducted a reassessment in accordance with its powers granted under the aforementioned articles, it was revealed that Plaintiff failed to fulfill the input tax deduction requirements, as they failed to provide the documents and invoices substantiating their entitlement to the deduction. As a result, the reported purchases were excluded, pursuant to Article (48) of the Common VAT Agreement of GCC States and Article (49) of the Implementing Regulations of the VAT. Second: Imposition of Fines for Submission of Incorrect Tax Return and Late Payment: In view of the outcome of the examination and assessment process for the tax period under dispute, a fine for submission of incorrect tax return was imposed, in accordance with Paragraph (1) of Article (42) of the Value Added Tax Law, which states: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due." Accordingly, a late payment fine was imposed for the months following the disputed tax period, as previously explained, in accordance with Article (43) of the VAT Law, which provides: "Any person who fails to pay the tax due within the period specified by the Regulations shall be subject to a fine equal to 5% of the amount of the unpaid tax for each month or part thereof for which the tax is not paid". Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response.

On Sunday, 26/06/2022, the session was convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Order (26040) dated 21/04/1441 AH. Having called parties to case, Plaintiff neither their representative appeared despite being legally notified, and Mr.... (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated ../03/1442 AH, issued by the Deputy Governor for Legal Affairs, and upon asking Defendant's representative for a response, he stated that he stands by the memorandum of reply submitted in case file and asserts case validity for



adjudication according to Article (20) of the Tax Dispute and Violation Committee Procedures. Consequently, the Department decided to adjourn the session for deliberation.

Grounds

The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, side by side with relevant laws and regulations.

In Form, Since Plaintiff filed this Case for the purpose of challenging Defendant's final reassessment for the VAT period of Q3 2020, based on Value Added Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes as per Royal Decree No. (M/113) dated 2/11/1438 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits, having examined case papers and response of parties thereto after giving them sufficient time to express and submit necessary documents, the Department established that Defendant issued its decision regarding the final reassessment for the VAT period of Q3 2020, and imposed fines for submission of incorrect tax return and late payment. The following was determined:

First: Regarding the Local Sales Subject to the Standard Tax Rate: The dispute lies in Defendant's exclusion of the purchases item due to Plaintiff's failure to provide the supporting documents and invoices necessary to exercise the right of deduction, based on Paragraph (1) of Article (48) of the Common VAT Agreement of GCC States. The Department, upon reviewing the Final Assessment Notice No. (...) dated 26/2/1443 AH, corresponding to 03/10/2021, noted that the reported purchases amount, according to the assessment notice, is SAR (232,230), while the purchases statement submitted by Plaintiff amounts to SAR (295,837), revealing a discrepancy between the reported purchases and the purchase statement. Furthermore, the invoices submitted by Plaintiff did not meet the tax invoice requirements, as TIN was incorrect, and the supplier's and customer's addresses were missing. Moreover, Plaintiff failed to submit any supporting documents to address the deficiencies in the invoices, such as the supplier's account or reconciliation. Paragraph (1) of Article (48) of the Common VAT Agreement of GCC States provides: "For the purpose of exercising the right to deduction, the taxable person must possess the following documents:" A. the Tax Invoice received pursuant to the provisions of this Agreement .." In addition, Paragraph (5) of Article (53) of the Implementing Regulations of the VAT Law states: "A Tax Invoice must include the following details in Arabic, in addition to any other language also shown on the Tax Invoice as a translation: a) the date of issue, b) a sequential number which uniquely identifies the Tax Invoice, c) the Tax Identification Number of the Supplier, d) in cases where the Customer is required to self-account for Tax on the Supply, the Customer's Tax Identification Number and a statement that the Customer must account for the Tax. e) the name and the address of the Supplier and of the Customer, f) the quantity and nature of the Goods supplied, or the scope and nature of the services rendered. g) the date on which the Supply took place, where this differs from the date of issue of the Tax Invoice, h) the taxable amount per rate or exemption, the unit price exclusive of VAT and any discounts or rebates if they are not included in the unit prices, i) the rate of Tax applied, j) the amount of Tax payable, shown in SAR, k) in the case where Tax is not charged at the basic rate, a narration explaining the Tax treatment applied to the supply, and l) in cases where



the profit margin method for Eligible Used Goods is applied, reference to the fact that VAT is charged on the profit on those Eligible Used Goods”. Based on the aforementioned Grounds, the Department concludes to dismiss Plaintiff’s claim in this regard.

Second: The Department, regarding the fine for submission of incorrect tax return, concluded to dismiss Plaintiff’s claim challenging Defendant’s decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fine under dispute is a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling. Accordingly, it is evident that Plaintiff erred in submitting the tax return. Paragraph (1) of Article (42) of the Value Added Tax Law states: “Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due”. Accordingly, the Department concludes to dismiss Plaintiff’s claim in this regard.

Third: The Department, regarding the late payment fine, concluded to dismiss Plaintiff’s claim challenging Defendant’s decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fine under dispute is a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling. Accordingly, it is evident that Plaintiff delayed in submitting the tax return within the statutory period. Article (43) of the Value Added Tax Law states: “Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid.” Accordingly, the Department dismisses Plaintiff’s claim in this regard.

In light of the above the Grounds and after deliberation, the Department unanimously decided the following:

Decision:

- To dismiss the Plaintiff case.

This decision was issued in the presence of both parties, in accordance with Article (56) of the Law of Civil Procedures. The date on which the decision was entered into the e-system of the General Secretariat of Zakat, Tax, and Customs Committees shall be considered the date of decision delivery. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt, whereafter, in the event that no appeal is submitted, the decision shall be final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

Third Department to Adjudicate Value Added Tax
Violations and Disputes Riyadh

Decision No. (VTR-2022-1171)
Delivered in Case No. (V-
86352-2021)

Key words:

Value Added Tax - Final Reassessment - Contested Decision Becomes Final Due to Lapse of the Objection Period - System Malfunction - Communication with Technical Support to Resolve the System Malfunction Issue - Standard-Rated Local Taxable Purchases - Fines for Submission of Incorrect Tax Return and Late Payment.

Abstract

Plaintiff seeks annulment of ZATCA's decision regarding the final reassessment for the VAT period of Q3 2020, as well as nullification of the reassessment fines. Thereafter, ZATCA responded as follows: Plaintiff failed to present the objection to ZATCA within the specified period according to Tax Dispute and Violation Committee Procedures. Therefore, the contested decision becomes final due to lapse of the objection period and is no longer subject to appeal. - The Department, regarding Defendant's formal defense, established that the failure to submit the objection within the statutory period was due to a system malfunction. On the other hand, Plaintiff exercised due diligence in attempting to submit the objection and contacted technical support to resolve the system issue. Having submitted the objection once the technical issue was resolved, the Department deems this defense unsatisfactory. Since Plaintiff failed to provide the supporting documents or tax invoices to substantiate their purchases and entitlement to the disputed input tax deduction regarding the standard-rated local taxable purchases, the Department, on the merits, is satisfied to affirm the validity of Defendant's action. Regarding the fines for submission of incorrect tax return and late payment, and given that the Department concluded to dismiss Plaintiff's claim challenging Defendant's decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fines under dispute are a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling. this Department ruled to: dismiss Plaintiff's case and consider the decision as final and enforceable.

Instruments:

- Article (48) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Article (43) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (2) and (3) of [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:





Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Monday, 27/06/2022, the Third Department for Adjudication of VAT Violations and Disputes in Riyadh, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Order No. (17218) dated 27/03/1442 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 14/12/2021.

Facts of this case are summarized that Plaintiff (...), holder of National ID No. (...), in his capacity as the owner of (...) Establishment for Trading, CR No. (...), filed a statement of claim challenging Defendant's decision regarding the final assessment for the VAT period of Q3 2020, as well as the reassessment fines, and requesting annulment of the decision along with the imposed fines.

By presenting this to the Defendant, ZATCA submitted a response memorandum stating the following: It is evident, upon reviewing Plaintiff's statement of claim, that the objection is limited to ZATCA's decision regarding the reassessment for the VAT period of Q3 2020, as well as the fines for submission of incorrect tax return and late payment. Accordingly, ZATCA sums up its response as follows: We respectfully inform the esteemed Committee that failed to present the objection to ZATCA within the specified period according to Article (2) of the Tax Dispute and Violation Committee Procedures, which stipulates "Any person against whom a decision has been issued by GAZT may file an objection before it within 60 days from the date of notification ...". Since ZATCA's reassessment decision was issued on 16/06/2021, while Plaintiff's objection was filed on 01/09/2021, the resulting interval between these dates exceeds sixty (60) days. Therefore, the contested decision becomes final due to lapse of the objection period and is no longer subject to appeal, in accordance with Paragraph (1) of Article (3) of the Tax Dispute and Violation Committee Procedures. Defendant's representative concluded his memorandum by requesting case inadmissibility in form. This concludes Defendant's response.

Moreover, Plaintiff submitted a memorandum of reply asserting that a technical malfunction on ZATCA's website caused the delay in filing the objection, and that they raised multiple support tickets to resolve this issue.

On Monday, 27/06/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Decree (26040) dated 21/14/1441 AH. Having called parties to case, attorney of the Plaintiff/ appeared, (Saudi National), under POA No. (...) holder of National ID No (...), attended in his capacity as attorney of Defendant. attended..... (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .../03/1443 AH, issued by the Deputy Governor for Legal Affairs. Having asked the Plaintiff regarding his case, they responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming contents of the memorandum of reply. The Department, upon reviewing the invoices provided by Plaintiff, observed several issues, including errors in the calculation of the tax rate and the customer's name. Consequently, the Department affirms the soundness of Defendant's position. When asked if either party wished to add anything further, both parties stated that they would rely on what has already been submitted. Accordingly, the Department decided to adjourn the session for deliberation and issue a decision.

Grounds

After due examination, and having taken cognizance of the case papers, and reviewed the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) of 03/05/1438 AH, the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by the Minister of Finance's Decision No. (1535) of 11/06/1425 AH, as amended, the Value Added Tax Law promulgated by Royal Decree



No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by the Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) of 14/12/1438 AH, as amended, and the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH and the relevant laws and regulations, the Department concluded that:

In Form, Since Plaintiff filed this Case for the purpose of challenging Defendant's final reassessment for the VAT period of Q3 2020, based on Value Added Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes as per Royal Decree No. (M/113) dated 2/11/1438 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

- The Department, regarding Defendant's argument that the case is inadmissible due to the finality of the decision, established that the failure to submit the objection within the statutory period was due to a system malfunction. On the other hand, Plaintiff exercised due diligence in attempting to submit the objection and contacted technical support to resolve the system issue. Having submitted the objection once the technical issue was resolved, the Department deems this defense unsatisfactory.

On Merits, having examined case papers and response of parties thereto after giving them sufficient time to express and submit necessary documents, the Department established that Defendant issued its decision regarding the final reassessment for the VAT period of Q3 2020, and imposed fines for submission of incorrect tax return and late payment. The following was determined:

First: Regarding the Local Sales Subject to the Standard Tax Rate: The dispute centers on Defendant's exclusion of the entire item of standard-rated taxable purchases. The Department, upon reviewing the case file and the documents submitted therein, observed that the invoices contained errors in the calculation of the tax rate and the customer's name. Furthermore, Plaintiff failed to provide the supporting documents or tax invoices to substantiate their purchases and entitlement to the disputed input tax deduction. Article (48) of the Common VAT Agreement of GCC States stipulates: "1. For purposes of exercising the right to deduction, the taxable person must hold the following documents: a) the Tax Invoice received pursuant to the provisions of this Agreement; B- Customs documents proving that the person is the importer of the goods in accordance with the provisions of the Common Customs Law. Accordingly, the Department affirms validity of Defendant's action.

Second: The Department, regarding the fine for submission of incorrect tax return, concluded to dismiss Plaintiff's claim challenging Defendant's decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fine under dispute is a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling. Accordingly, it is evident that Plaintiff erred in submitting the tax return. Paragraph (1) of Article (42) of the Value Added Tax Law states: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due". Accordingly, the Department concludes to dismiss Plaintiff's claim in this regard.

Third: The Department, regarding the late payment fine, concluded to dismiss Plaintiff's claim challenging Defendant's decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fine under dispute is a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling. Accordingly, it is evident that Plaintiff delayed in submitting the tax return within the statutory period. Article (43) of the Value Added Tax Law states: "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of



the unpaid Tax for each month or part thereof for which the Tax has not been paid.” Accordingly, the Department dismisses Plaintiff’s claim in this regard.

In light of the above the Grounds and after deliberation, the Department unanimously decided the following:

Decision:

First: To Accept case in form.

Second: Dismiss the case on merits.

This decision was issued in the presence of both parties, and the date on which the decision was entered into the e-system of the General Secretariat of Zakat, Tax, and Customs Committees shall be considered the date of decision delivery. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt, whereafter, in the event that no appeal is submitted, the decision shall be final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

Third Department to Adjudicate Value Added Tax
Violations and Disputes Riyadh

Decision No. (VTR-2022-1173)
Delivered in Case No. (V-
86489-2021)

Key words:

Value Added Tax - Final Reassessment - The Authority (ZATCA) May Conduct a Tax Assessment for a Taxable Person Regardless of the Submitted Tax Return - Amendment of Plaintiff's Tax Return - Late Payment Fine - Fine for Submission of Incorrect Tax Return - Standard-Rated Local Taxable Sales - Non-Substantive Defense - Statutory Period.

Abstract

Plaintiff seeks annulment of ZATCA's decision regarding the final reassessment for the VAT period of Q2 2018, as well as nullification of the reassessment fines. Thereafter, ZATCA responded as follows: Plaintiff submitted their return for the tax period in question, disclosing no amounts. ZATCA, after reviewing Plaintiff's return for Q2 2018, found it to be incorrect, thus necessitating an amendment to Plaintiff's tax return. As a result, a discrepancy arose in the amount of tax due, which was not paid within the statutory period. Consequently, a late payment fine was imposed for the months following the disputed tax period. Furthermore, ZATCA identified tax differences that were not initially disclosed, leading to the imposition of a fine for submission of incorrect tax return. The Department, regarding the standard-rated local taxable sales, established that Plaintiff did not provide any supporting documents to prove otherwise. Moreover, Plaintiff's claim that they are an individual registered for VAT but do not have an accounting or financial system and were unaware of the procedures and laws is considered non-substantive defense. Regarding the fines for submission of incorrect tax return and late payment, and given that the Department concluded to dismiss Plaintiff's claim challenging Defendant's decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fines under dispute are a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling, this Department ruled to: dismiss Plaintiff's case and consider the decision as final and enforceable.

Instruments:

- Articles (26), (42/1), and (43) of [Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (14), (56/2), and (64/1) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of Directors of the General Authority of Zakat and Income -formerly- No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.



On Sunday, 26/06/2022, the Third Department for Adjudication of VAT Violations and Disputes in Riyadh, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/06/1425 AH as amended, and constituted pursuant to Royal Order No. (17218) dated 27/03/1442 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 15/12/2021.

Facts of this case are summed up in that Plaintiff/, holder of National ID No. (.....), in their own capacity, filed a statement of claim, challenging Defendant's decision regarding the final reassessment for VAT period of Q2 2018, as well as the reassessment fines, and requesting annulment of the decision along with the imposed fines.

By presenting this to the Defendant, ZATCA submitted a response memorandum stating the following: Upon reviewing Plaintiff's statement of claim, it turned out that it is limited to the following: -Reassessment; Late payment fine; Fine for Submission of Incorrect Tax Return; Accordingly, ZATCA summarize its response as follows: First: Regarding ZATCA's amendment of standard-rated taxable sales: • Plaintiff submitted their return for the tax period in question but disclosed no amounts for the aforementioned item. ZATCA exercised its powers granted pursuant to Article (26) of the Value Added Tax Law, which states: "The Authority may make a Tax assessment of a Taxable Person irrespective of a Tax Return filed by him...", and Paragraph (1) of Article (64) of the Implementing Regulations of the VAT Law, which stipulates: "The Authority may make an assessment of the VAT obligations of a Person in respect of one or more Tax Periods. The Authority shall provide notification to the Taxable Person when it issues such an assessment." • The reassessment resulted in subjecting revenues—undisclosed by Plaintiff in their tax return—to VAT, based on Plaintiff's data held by the Ministry of Justice, pursuant to Paragraph (2) of Article (56) of the Implementing Regulations of the VAT Law, which states "In addition to the other rights provided for in this Article, the Authority may access relevant information held by third parties directly from those parties including requiring direct access to records generally on an ongoing basis". Accordingly, ZATCA maintains the validity of its decision to subject the revenues to the standard tax rate, based on Article (14) of the Implementing Regulations of the VAT Law, which stipulates "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom" Second: Regarding the late payment fine: ZATCA wishes to inform the esteemed Committee that, upon reviewing Plaintiff's return for Q2 2018, found it to be incorrect, thus necessitating an amendment to Plaintiff's tax return. As a result, a discrepancy arose in the amount of tax due, which was not paid within the statutory period. Consequently, a late payment fine was imposed for the months following the disputed tax period, based on Article (43) of the Value Added Tax Law, which provides: "Any person who fails to pay the tax due within the period specified by the Regulations shall be subject to a fine equal to 5% of the amount of the unpaid tax for each month or part thereof for which the tax is not paid". Third: Regarding the fine for submission of incorrect tax return: ZATCA examined Taxpayer's tax return and identified tax differences that were not initially disclosed, leading to the imposition of a fine for submission of incorrect tax return, pursuant to Paragraph (1) of Article (42) of the Value Added Tax Law, which provides: "Any person who files an incorrect tax return to the Authority, amends a tax return after being filed, or files any document with the Authority in relation to the tax due by him which results in an error in the calculation of the tax amount resulting in an amount that is less than the tax due shall be subject to a fine equal to 50% of the difference between the calculated tax and the tax due". Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response.

Furthermore, Plaintiff presented a memorandum of reply stating that they are an individual who occasionally purchases and sells real estate and registered for VAT as an individual. They further stated that they do not possess an accounting system and are unaware of the procedures and laws.



On Sunday, 26/06/2022, the session was convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Order (26040) dated 21/04/1441 AH. Having called parties to case, Plaintiff neither their representative appeared despite being legally notified, and Mr.... (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated ../03/1442 AH, issued by the Deputy Governor for Legal Affairs, and upon asking Defendant's representative for a response, he stated that he stands by the memorandum of reply submitted in case file and asserts case validity for adjudication according to Article (20) of the Tax Dispute and Violation Committee Procedures. Consequently, the Department decided to adjourn the session for deliberation.

Grounds

The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, side by side with relevant laws and regulations.

In Form, Since Plaintiff filed this Case for the purpose of challenging Defendant's final reassessment for the VAT period of Q2 2018, based on Value Added Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes as per Royal Decree No. (M/113) dated 2/11/1438 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits: having examined case papers and response of parties thereto after giving them sufficient time to express and submit necessary documents, the Department established that Defendant issued its decision regarding the final reassessment for the VAT period of Q2 2018, and imposed fines for submission of incorrect tax return and late payment. The following was determined:

First: (Standard-Rated Local Taxable Sales) Item: The dispute centers on Defendant's inclusion of an amount totaling SAR (1,225,000.00) under the sales item, on the Grounds that Plaintiff failed to disclose certain revenues, as evidenced by data obtained from the Ministry of Justice. Since Plaintiff did not provide any documents to prove otherwise, their claims that they are an individual registered for VAT and not a company or establishment, that they do not have an accounting or financial system, and that they were unaware of the procedures and laws, are considered non-substantive defenses. Article (14) of the Implementing Regulations of the VAT Law stipulates: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom". Therefore, the Department decides to dismiss Plaintiff's claim in this regard.

Second: The Department, regarding the fine for submission of incorrect tax return, concluded to dismiss Plaintiff's claim challenging Defendant's decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fine under dispute is a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling. Accordingly, it is evident that Plaintiff erred in submitting the tax return.



Paragraph (1) of Article (42) of the Value Added Tax Law states: “Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due”. Accordingly, the Department concludes to dismiss Plaintiff’s claim in this regard.

Third: The Department, regarding the late payment fine, concluded to dismiss Plaintiff’s claim challenging Defendant’s decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fine under dispute is a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling. Accordingly, it is evident that Plaintiff delayed in submitting the tax return within the statutory period. Article (43) of the Value Added Tax Law states: “Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid.” Accordingly, the Department dismisses Plaintiff’s claim in this regard.

Based on the above, and after deliberation, the Department unanimously decided as follows:

Decision:

- Dismiss Plaintiff’s Case.

This decision was issued in the presence of both parties, in accordance with Article (56) of the Law of Civil Procedures. The date on which the decision was entered into the e-system of the General Secretariat of Zakat, Tax, and Customs Committees shall be considered the date of decision delivery. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt, whereafter, in the event that no appeal is submitted, the decision shall be final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

Third Department to Adjudicate Value Added Tax
Violations and Disputes Riyadh

Decision No. (VTR-2022-1174)
Delivered in Case No. (V-
85730-2021)

Key words:

Value Added Tax - Final Reassessment - Non-Compliance with Zero-Rated Taxable Export Requirements - Place of Supply of Insurance Brokerage Commission - Separation of Insurance and Reinsurance Transactions - The Authority (ZATCA) May Conduct a Tax Assessment for a Taxable Person Regardless of the Submitted Tax Return.

Abstract

Plaintiff seeks annulment of ZATCA's decision regarding the final reassessment for the VAT period of January 2019, as well as nullification of the fines resulting from the reassessment. Thereafter, ZATCA responded as follows: ZATCA may conduct a tax assessment of the taxable person regardless of the tax return submitted. Upon reviewing the nature of Plaintiff's activities and the services they provide, ZATCA determined that these sales did not meet the zero-rated taxable export requirements, and accordingly subjected thereof to the standard rate. Given the outcome of the examination and assessment for the disputed tax period, a fine for submission of incorrect tax return was imposed. Consequently, a late payment fine was imposed for the months following the disputed tax period. It was established to the Department that Plaintiff provides reinsurance brokerage services for properties located within the Kingdom; therefore, these services are considered connected to the properties in question, and as such, the place of supply is deemed to be within the Kingdom. As Plaintiff did not submit any documents proving otherwise, the Department concludes that the place of supply for the insurance brokerage commission subject of the dispute is within the Kingdom. In light of the foregoing, the Department concludes to dismiss Plaintiff's claim in this regard. In response to Plaintiff's argument that the insurance transaction is separate from the reinsurance one, it is stated that the reinsurance transaction in question involved the sharing of financial risks related to specific properties rather than a group or portfolios. Accordingly, the Department deems this defense unsatisfactory. Regarding the fines for submission of incorrect tax return and late payment, and given that the Department concluded to dismiss Plaintiff's claim challenging Defendant's decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fines under dispute are a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling. Accordingly, the Department ruled to Dismiss Plaintiff case, and consider the decision as final and enforceable.

Instruments:

- Article (19.1/2) and (/) of [The Common VAT Agreement of GCC States, issued pursuant to Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Articles (42.1) and (43) of [Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)



- Articles (14) and (33/2.a) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of Directors of the General Authority of Zakat and Income - formerly- No. \(3839\) dated 14/12/1438 AH.](#)

Facts:



Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Thursday, 28/07/2022, the Third Department for Adjudication of VAT Violations and Disputes in Riyadh, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/10/1425 AH as amended, and constituted pursuant to Royal Order No. (17218) dated 27/03/1442 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 01/12/2021.

Facts of this case are summed up in that Plaintiff/ ... Company Ltd., CR No. (...), represented by, holder of National ID No. (...), in his capacity as Plaintiff's legal representative, filed a statement of claim challenging Defendant's decision regarding the final reassessment for the VAT period of January 2019, as well as the fines resulting from the said reassessment, requesting annulment of such decision and the associated fines.

By presenting this to the Defendant, ZATCA submitted a response memorandum stating the following: Upon reviewing Plaintiff's statement of claim, it turned out that its Clauses are as follows: 1. Zero-Rated Taxable Exports for the Tax Periods Under Dispute: 2. Imposition of Fines for Submission of Incorrect Tax Return and Late Payment for the Tax Periods Under Dispute: We summarize our response as follows: ZATCA, in accordance with Paragraph (1) of Article (26) of the Value Added Tax Law, which states: "1. The Authority may make a Tax assessment of a Taxable Person irrespective of a Tax Return filed by him", and Article (64) of the Implementing Regulations of the VAT Law, which stipulates: "The Authority may make an assessment of the VAT obligations of a Person in respect of one or more Tax Periods. The Authority shall provide notification to the Taxable Person when it issues such an assessment." ZATCA wishes to clarify to the esteemed Committee that Plaintiff's economic activity involves reinsurance brokerage services. Specifically, in relation to the tax transaction in question, Plaintiff's activity is limited to reinsurance brokerage on behalf of the property owner, pertaining to properties located within the Kingdom of Saudi Arabia. 1.1 With regard to the First Clause, Section (a) of Paragraph (2) of Article (33) of the Implementing Regulations of the VAT Law excludes services exported to non-residents in the GCC member states from zero-rating treatment if the place of supply is located in any member state according to Articles (17-21) of the Common VAT Agreement of GCC States, which provides: "1- Except as stated in the second Paragraph of this Article, a Supply of services made by a Taxable Person to a Customer without a Place of Residence in any Member State shall be zero-rated. 2- The first Paragraph of this Article shall not be applicable in any of the following cases: a) If the place of Supply of the services is in any Member State pursuant to the Special Cases listed in Articles seventeen to twenty-one of the Agreement." Furthermore, Paragraph (2) of Article (19) of the Common VAT Agreement of GCC States clarifies that the place of real estate services is the location of that property: "2. the place of supply of Real Estate Related Services shall be where the real estate is located." As a corollary to the above, and upon reviewing the nature of Plaintiff's activity and the services they provide, ZATCA determined that the provisions of Article (33) of the Implementing Regulations of the VAT Law are not applicable, as these sales do not meet the zero-rated export requirements. Plaintiff provides reinsurance brokerage services for properties located within the Kingdom; therefore, these services are considered connected to the properties in question. Furthermore, ZATCA's action is not invalidated by Plaintiff's argument challenging the instances of real estate services listed in Paragraph (1) of Article (19) of the Common VAT Agreement of GCC States, as the services mentioned in that Article are illustrative



rather than exhaustive. ZATCA, based on the foregoing, and due to the established non-applicability of the conditions stipulated in Article (33) of the Implementing Regulations for zero-rating the supplies under dispute, subjected thereof to the standard rate, in accordance with Article (14) of the Implementing Regulations of the VAT Law, which states “Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity ..” 1.2 With regard to the Second Clause: In view of the outcome of the examination and assessment process for the tax period under dispute, a fine for submission of incorrect tax return was imposed, in accordance with Paragraph (1) of Article (42) of the Value Added Tax Law, which states: “Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due.” Accordingly, a late payment fine was imposed for the months following the disputed tax period, as previously explained, in accordance with Article (43) of the VAT Law, which provides: “Any person who fails to pay the tax due within the period specified by the Regulations shall be subject to a fine equal to 5% of the amount of the unpaid tax for each month or part thereof for which the tax is not paid”. Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response.

On Saturday, 23/07/2022, the session was held via video conference in accordance with the remote video litigation procedures based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to case, ... Lebanese National under Resident ID No. (.....), appeared as the legal representative of Plaintiff pursuant to the Articles of Association attached to the case file. Additionally, ... (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated .../10/1443 AH, issued by the Deputy Governor for Legal Affairs. The Department reviewed the statement of claim and the memorandum of reply with the parties involved, and heard clarifications from each party on the points raised in the submitted memoranda. When asked if they had anything further to add, both parties stated that they were satisfied with their earlier submissions. Accordingly, the Department decided to adjourn the session for deliberation and pronouncement of the decision in the next session scheduled for July 28th at 2 PM.

On Thursday, 28/07/2022, the session was held via video conference in accordance with remote video litigation procedures based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to case, ... Lebanese National under Resident ID No. (.....), appeared as the legal representative of Plaintiff pursuant to the Articles of Association attached to the case file. Additionally, ... (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated .../10/1443 AH issued by the Deputy Governor for Legal Affairs. Since this session was designated for pronouncement of the decision, the Department decided to adjourn the session in preparation for deliberation in preparation for issuing the decision.

Grounds

The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income



(currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, side by side with relevant laws and regulations.

In Form, Since Plaintiff filed this Case for the purpose of challenging Defendant's final reassessment for the VAT period of January 2019, based on Value Added Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes as per Royal Decree No. (M/113) dated 2/11/1438 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits: having examined case papers and response of parties thereto after giving them sufficient time to express and submit necessary documents, the Department established that Defendant issued its decision regarding the final reassessment for the VAT period of January 2019, and imposed fines for submission of incorrect tax return and late payment. The following was determined:

First: The dispute, concerning standard-rated taxable exports, pertains to Defendant's application of the standard VAT rate to exports that are, according to Plaintiff, subject to a 0% tax rate. Plaintiff argues that the disputed amount represents reinsurance brokerage services, which are not related to the provision of any real estate services. They assert that the brokerage contract is solely between the company and a non-resident reinsurance company operating outside the Kingdom, with no presence within it. Conversely, Defendant contends that an examination of Plaintiff's activities and the services provided reveals that the conditions for taxable exports at (0%) have not been met, as Plaintiff provides reinsurance brokerage services for properties located within the Kingdom; therefore, these services are considered connected to the properties in question, and their place of supply is within the Kingdom, in accordance with Paragraph (2.a) of Article (33) of the Implementing Regulations of the VAT Law, and Paragraph (2) of Article (19) of the Common VAT Agreement of GCC States. Moreover, the Department, upon reviewing the case file and the submitted documents, found that the reinsurance brokerage commission in question is related to the reinsurance of specific documents concerning particular real estate or properties within the Kingdom, which differs from cases where such a commission results from a reinsurance contract assigning general risks unrelated to specific goods, real estate, or properties to a non-resident reinsurance company. Article (14) of the Implementing Regulations of the VAT Law states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom". Moreover, Article (32) of the same Regulations provides: "1- Except as stated in the second Paragraph of this Article, a Supply of services made by a Taxable Person to a Customer without a Place of Residence in any Member State shall be zero-rated. 2- The first Paragraph of this Article shall not be applicable in any of the following cases: a) If the place of Supply of the services is in any Member State pursuant to the Special Cases listed in Articles seventeen to twenty-one of the Agreement." Paragraph (2) of Article (19) of the Common VAT Agreement of GCC States stipulates: "As an exception to the provisions of Article 15 of this Agreement, the place of supply of Real Estate Related Services shall be where the real estate is located". Whereas Plaintiff did not submit any documents to establish otherwise, the Department concludes that the place of supply for the insurance brokerage commission—the subject of the dispute—is within the Kingdom. Article (14) of the Implementing Regulations of the VAT Law provides: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the



Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom”. Moreover, Article (32) of the same Regulations provides: “1- Except as stated in the second Paragraph of this Article, a Supply of services made by a Taxable Person to a Customer without a Place of Residence in any Member State shall be zero-rated. 2- The first Paragraph of this Article shall not be applicable in any of the following cases: a) If the place of Supply of the services is in any Member State pursuant to the Special Cases listed in Articles seventeen to twenty-one of the Agreement.”. Paragraph (2) of Article (19) of the Common VAT Agreement of GCC States stipulates: “As an exception to the provisions of Article 15 of this Agreement, the place of supply of Real Estate Related Services shall be where the real estate is located”. For the foregoing reasons, the Department concludes to dismiss Plaintiff’s claim in this regard.

In response to Plaintiff’s argument that the insurance transaction is separate from the reinsurance one, it is stated that the reinsurance transaction in question involved the sharing of financial risks related to specific properties rather than a group or portfolios. Accordingly, the Department deems this defense unsatisfactory.

As for Plaintiff’s argument that the reinsurance brokerage services it provides to reinsurance companies are beyond insurance contracts, the response is that brokerage activities, in general, originate from other transactions, such as sales brokerage or purchase brokerage. In the case of the reinsurance transaction in question, the commission for reselling a portion of the insurance company’s risks is linked to the insurance of real estate located in the Kingdom, as the commission would not exist without it. Consequently, there is a connection between the subject matter of the reinsurance and the commission generated from and related to the reinsurance, which value is affected by the commodity subject to reinsurance by the (non-resident) supplier. Consequently, the Department deems this defense unsatisfactory.

As for Plaintiff’s argument that the services they provide as a reinsurance broker cannot be considered real estate services, based on Article (19) of the Agreement and Article (23) of the Regulations, the response is that the provisions of these articles were illustrative rather than exhaustive. Consequently, the Department deems this defense unsatisfactory.

Second: The Department, regarding the fine for submission of incorrect tax return, concluded to dismiss Plaintiff’s claim challenging Defendant’s decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fine under dispute is a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling. Accordingly, it is evident that Plaintiff erred in submitting the tax return. Paragraph (1) of Article (42) of the Value Added Tax Law states: “Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due”. Accordingly, the Department concludes to dismiss Plaintiff’s claim in this regard.

Third: The Department, regarding the late payment fine, concluded to dismiss Plaintiff’s claim challenging Defendant’s decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fine under dispute is a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling. Accordingly, it is evident that Plaintiff delayed in submitting the tax return within the statutory period. Article (43) of the Value Added Tax Law states: “Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid.” Accordingly, the Department dismisses Plaintiff’s claim in this regard.

In light of the above the Grounds and after deliberation, the Department unanimously decided the following:

Decision:



- Dismiss Plaintiff Case.

This decision was issued in the presence of both parties, and the date on which the decision was entered into the e-system of the General Secretariat of Zakat, Tax, and Customs Committees shall be considered the date of decision delivery. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt, whereafter, in the event that no appeal is submitted, the decision shall be final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

Third Department to Adjudicate Value Added Tax
Violations and Disputes Riyadh

Decision No. (VTR-2022-1194)
Delivered in Case No. (V-
67293-2021)

Key words:

Value Added Tax – Final Reassessment – Fine for Submission of Incorrect Tax Return – Late Payment Fine – Exports – Standard-Rated Taxable Sales – ATM Cash Withdrawal Outside the Kingdom – Purchases Made by Cardholder Outside the Kingdom from a Foreign Merchant – Commission Earned by Plaintiff Subject to the Zero Rate – Non-Resident Merchant – Resident Cardholder in the Kingdom Considered Another Beneficiary – Other Exports – Insurance Expenses Incurred on Assets Under a Murabaha Financing Product Subjected to Standard-Rated Taxable Sales – Unless Plaintiff Submits Documents Substantiating the Claim, Their Demand in This Regard Shall Be Dismissed – Statutory Period.

Abstract

Plaintiff seeks annulment of ZATCA's decision regarding the final reassessment for the VAT period of August 2018, as well as nullification of the fines for submission of incorrect tax return and late payment, as follows: First: Zero-Rated Taxable Exports: ZATCA excluded the amounts disclosed under the "Exports" category and reclassified thereof under "Standard-Rated Taxable Sales". ZATCA responded that Plaintiff failed to provide any evidence contradicting ZATCA's decisions, nor did they submit any required documentation during the objection stage. Therefore, Plaintiff's failure to substantiate their claim regarding this item affirms the validity and soundness of ZATCA's decision in this regard, based on the clarifications and documents submitted by Plaintiff to ZATCA. The Department, with respect to the first item—namely, ATM cash withdrawal outside the kingdom made by the cardholder, and purchases made by the cardholder outside the Kingdom from a foreign merchant, —that, in principle, the Commission earned by Plaintiff may rightfully be subject to the zero rate. However, failed to provide the specific amounts related to this item, for which they seek to have taxed at 0%. Consequently, the Department is unable to determine these amounts in an unambiguous and non-discretionary manner. Accordingly, the Department hereby dismisses Plaintiff's claim in this regard. Regarding purchases made by the cardholder while physically present in the Kingdom from a non-resident merchant via a foreign online store, the resident cardholder in the Kingdom is considered another beneficiary, constituting Plaintiff's violation of Paragraph (2.c) of the aforementioned Article. Since Plaintiff did not submit any documents proving otherwise, the Department, based on the foregoing, concludes to dismiss Plaintiff's claim in this regard. It is evident, regarding other exports, that the dispute arises from Defendant's decision to subject these other exports to tax, due to Plaintiff's failure to provide evidence that the disputed sales constitute export of services. As Plaintiff did not submit documentation substantiating their claim, the Department hereby dismisses Plaintiff's claim on this matter. Second: Fines for Submission of Incorrect Tax Return and Late Payment: The Department concluded to dismiss Plaintiff's claim challenging Defendant's decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fine under dispute is a result of and linked to



this reassessment. Therefore, related matters follow the same legal ruling. Accordingly, it is evident that Plaintiff erred in filing the return and delayed in paying the tax due within the statutory period. Based on the foregoing, the Department concludes to dismiss Plaintiff's claim in this regard. Accordingly, the Department ruled to Dismiss Plaintiff's case - the decision shall be final and enforceable.

Instruments:

- Articles (1), (6), and (8) of [the Commercial Books Law issued on 17/12/1409 AH \(corresponding to 20/07/1989\) by Royal Decree No. M/61 dated 17/12/1409 AH, and the Council of Ministers' Resolution No. \(194\) dated 23/11/1409 AH.](#)
- Articles (36) and (43) of [Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (14), (15/8), and (33/1), Paragraphs (2.b) and (2.c), Articles (36), (43), (49), (53), (56), and (66) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of Directors of the General Authority of Zakat and Income -formerly- No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Wednesday, 29/06/2022, the Third Department for Adjudication of VAT Violations and Disputes in Riyadh, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Order No. (17218) dated 27/03/1442 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 26/08/2021.

Facts of this Case are summed up in that Plaintiff, CR No. (...), represented by, holder of National ID No. (...), in his capacity as a representative under PoA No. (...), filed a statement of claim challenging Defendant's decision regarding the final reassessment for the VAT period of August 2018, as well as the fines resulting from the said reassessment, requesting annulment of such decision and the associated fines.

By presenting this to the Defendant, ZATCA submitted a response memorandum stating the following: First: Zero-Rated Taxable Exports: ZATCA excluded the amounts disclosed under the "Exports" category and reclassified thereof under "Standard-Rated Taxable Sales", due to non-compliance with the conditions set forth in Article (33) of the Implementing Regulations of the VAT Law. Upon examination of the item, it was found that the Bank has (6) types of service exports, namely:

International Scheme Operator	194,442,264.65
Foreign Bank FI charges	36,844,573.77
Export LC Confirmation charges on Issuer	4,493,212.16
Fees on Loans to non-resident	742,299.85
Charges deducted from overseas beneficiary	1,248,596.56
LC related Charges	6,712,591.85
TOTAL	244,483,538.84

ZATCA, regarding Plaintiff's objection to the sales represented by interchange fees, wishes to clarify to the honorable Committee the nature of the first item and respond to the claims stated in Plaintiff's statement of claim: (A)The sales disclosed under the "Exports" category consist of interchange fees received by Plaintiff, which are associated with payment facilitation services for purchases made by foreign banks on behalf of cardholders (...) and... outside the geographical



scope of the Kingdom, where the cards are issued by the Bank to its customers. (B) Plaintiff, ... Financial Group, in its capacity as a bank, receives interchange fees from (... Company) and (... Company) in cases where the cardholder (holder of a [Bank Name] card) makes a purchase from a merchant with an account at another bank or withdraws cash from an ATM operated by another bank (in its capacity as the card issuer). (C) In another scenario, the Plaintiff receives interchange fees when a holder of a card issued by another bank makes a purchase from a merchant whose account is with ... Bank, or withdraws cash from an ATM operated by [Bank Name], in its capacity as the transaction facilitator. (D) Plaintiff reports the interchange fees they receive in their capacity as either the issuer or facilitator of purchase transactions within the Kingdom as standard-rated taxable sales. Conversely, they report the interchange fees they receive in their capacity as a card issuer or transaction facilitator for cross-border purchases (outside the Kingdom) as zero-rated taxable sales, considering thereof to be exported services from their perspective. On the other hand, ZATCA affirms that this constitutes an incorrect tax treatment, given the nature of the benefiting parties and the extent to which the disputed procedure aligns with the provisions of Article (33) of the Implementing Regulations of the VAT Law. (E) Plaintiff, according to the hearing session held between ZATCA and Plaintiff during the objection stage before ZATCA, acknowledged that (... Company) and (... Company) submit daily transaction reports, through which the nature of the aforementioned collected fees is determined, and consequently, they are declared under either the "Sales" or "Exports" category. (F) ZATCA, based on the foregoing clarification and considering the nature of the disputed activity, confirms the existence of direct benefit by another person within the Kingdom—specifically, cases where the cardholder (holder of a [Bank Name] card) uses the card within the Kingdom to purchase goods or services electronically from outside the Kingdom and benefits therefrom locally. In accordance with Article (33) of the Implementing Regulations of the VAT Law, Paragraph (2.c) excludes from zero-rating those supplies made by a taxable person to a non-resident customer in any Member State as follows: (c. If the Customer or any other Person benefits directly from the services when such Customer or Person is situated in a Member State, and the other Person is not permitted to deduct the Input Tax on such services in full). Moreover, Plaintiff fails to consider, when disclosing their sales, whether the other bank (the transaction facilitator) has a branch within the Kingdom of Saudi Arabia—an instance that is also excluded from zero-rating under Paragraph (2.b) of the aforementioned Article. (G) ZATCA, to verify the accuracy of Plaintiff's returns for the disputed periods, requested that Plaintiff clarify the tax treatment of the scenario described in the preceding paragraph—i.e., when a cardholder inside the Kingdom makes an online purchase from outside Saudi Arabia. Meanwhile, Plaintiff acknowledged—explaining their viewpoint— that there is no direct relationship between the commission received from (... Company) and (... Company) and the cardholder; they asserted that the fees collected qualify as international fees, disclosed as exports. (H) ZATCA disagrees with Plaintiff's assertion that no relationship exists between the cardholder and the interchange fees. ZATCA points out that, had the cardholder not used Plaintiff's payment method [Bank Name] card), the Bank would not have received the commission. ZATCA further notes that it requested additional documentation, including a detailed breakdown of transactions related to these commissions, confirmation of the cardholder's location during the transaction, and details of the other bank (issuer/transaction facilitator). However, Plaintiff failed to submit the required statement, preventing ZATCA from identifying and verifying transactions that meet the conditions for service exports. (I) Accordingly, ZATCA upholds the statements made in its above response, as well as the validity of the initial procedure under dispute. ZATCA, with respect to ZATCA's decision concerning the "Other Exports," requested, during the hearing session held at the objection stage review, that Plaintiff clarify the nature of the services categorized as "Other Exports". On the other hand, Plaintiff stated during the session that it would submit a follow-up letter to ZATCA detailing the nature of those services. Moreover, ZATCA, as a reminder and to ensure compliance, formally requested additional information concerning the "Other Exports" item under an Additional Information Request Notice. However, Plaintiff failed



to submit the requested documents, thereby breaching their obligation under Article (56) of the Implementing Regulations of the VAT Law, which mandates that taxable persons must supply the Authority with any information requested to verify tax compliance, as follows: “1. All Persons must provide the Authority with any information requested by the Authority for the purposes of establishing whether that Person is complying fully with its Tax obligations.” ZATCA notes that Plaintiff did not submit any of the documents requested during the objection stage. In light of the correspondence submitted by Plaintiff during the examination stage, the following is observed:

Service	Note
Foreign Bank FI charges	The Bank submitted a correspondence document to the audit team, which indicates that the applicant for the financial service is a company resident in the Kingdom, while the invoice was issued to a non-resident bank.
Export LC Confirmation charges on Issuer	The Bank provided the audit team with a transfer document (a resident customer's account in the Kingdom) reflecting a transfer from their account with a foreign bank to ... Bank. Accordingly, ... Bank collects deposit fees for this transaction.
Fees on Loans to non-resident	The document submitted to the Audit Department does not clarify the nature of the transaction.
Charges deducted from overseas beneficiary	The document submitted to the Audit Department is a correspondence record between two banks, rather than a contract. This document lacks detailed information about the services rendered, only mentioning consulting services for a government agency (SAMA).
LC related Charges	The document submitted to the Audit Department is a correspondence record between two banks, rather than a contract, and therefore does not describe the nature of the transaction. However, it indicates the involvement of a third party—(... Company) in KSA.

Based on the aforementioned, ZATCA emphasizes that Plaintiff did not submit any documentation substantiating that the sales reported in their tax returns under the “Exports” category constitute actual exports of services, nor did they provide any evidence to refute ZATCA’s initial decision. Furthermore, ZATCA points out that all documents submitted by Plaintiff were merely a collection of correspondences presented during the audit phase. Accordingly, ZATCA confirms the validity of its procedure in question. Plaintiff, regarding ZATCA’s decision to subject the insurance expenses incurred on assets under a Murabaha financing product to standard-rated taxable sales for the tax periods of January 2018 and December 2018, acknowledged in their objection letter submitted to ZATCA that they do not charge insurance installment amounts to customers and that input tax is not deducted on such amounts. Consequently, ZATCA requested additional documents during both the examination and objection stages to verify the accuracy of Plaintiff’s claims. However, Plaintiff failed to provide any evidence to contradict ZATCA’s findings. Therefore, ZATCA maintains the validity of its decision as per Articles (56) and (66) of the Implementing Regulations of the VAT Law. ZATCA, regarding its decision to subject sugar scrap revenues—revenues from other activities—to the standard-rated local taxable sales for the tax periods of December 2018/2019, based its decision on the financial statements submitted by Plaintiff. During both the examination and objection stages, ZATCA requested that Plaintiff provide any documentation supporting their position regarding the discrepancies between their financial statements and the disclosures made in their tax returns for December 2018/2019. However, Plaintiff failed to provide evidence to contradict ZATCA’s findings, in accordance with Articles (14), (56), and (66) of the Implementing Regulations of the VAT Law. Furthermore, ZATCA maintains the validity of its decision regarding



this matter. ZATCA, regarding its decision to exclude the amounts under the "Purchases" category, represented by real estate financing purchases for the tax periods of October, November, and December 2019—in order to verify the accuracy of Plaintiff's declarations in the purchases item of their tax returns for the aforementioned periods—requested Plaintiff to provide supporting documents, specifically purchase invoices that would entitle them to claim deduction. Nevertheless, Plaintiff did not provide any tax invoices for their purchases, nor any commercial document as an alternative to the tax invoices to substantiate their entitlement to exercise the right of deduction. Furthermore, ZATCA, pursuant to Articles (49) and (53) of the Implementing Regulations of the VAT Law, upholds the validity of its procedure concerning this item. It was determined, regarding the late payment fine, that the tax return was incorrect, necessitating the amendment of returns and reassessment. As a result, there was a discrepancy in the due tax amount, which was not paid on the due date. Consequently, a late payment fine was imposed for the months following the disputed tax period, in accordance with Article (43) of the VAT Law. Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response.

Plaintiff also submitted a memorandum of reply, including twenty-three-page attachments, in which they stated that, regarding the interchange fees, the Bank believes that ZATCA's memorandum of reply contains certain inconsistencies and lacks an accurate and correct analysis of the operations related to interchange fees, which the Bank discloses in its tax returns under the "Zero-Rated Taxable Sales", based on the following Grounds: ZATCA's classification of all interchange fees as subject to the standard VAT rate is based on its perspective that only one type of transaction generating these fees falls under such rate. The Bank clarifies that the interchange fees declared under exports include three types of transactions that fall within its scope, namely:

1. A cash withdrawal from an ATM outside the Kingdom by the cardholder: Since the arises from covering the amounts withdrawn by the cardholder through the transfer of funds outside KSA to a non-resident bank, the Bank treats the interchange fees resulting from this transaction as subject to the zero-rate of tax, based on Article (33) of the Regulations.
2. In the case of a purchase made by a cardholder while outside the Kingdom from a foreign merchant, where the direct beneficiary of the service in this transaction is the non-resident foreign merchant, and the Bank's commission results from covering the funds deposited by the facilitating bank into the merchant's account through the transfer of funds outside the Kingdom, the Bank applies a zero-rate tax to the interchange fees resulting from this transaction, based on Article (33) of the Regulations.
2. In the case of a purchase made by a cardholder while inside the Kingdom from a foreign merchant via online platforms, where the direct beneficiary of the service in this transaction is the non-resident foreign merchant, and the Bank's commission results from covering the funds deposited by the facilitating bank into the merchant's account through the transfer of funds outside the Kingdom, the Bank applies a zero-rate tax to the interchange fees resulting from this transaction, based on Article (33) of the Regulations.

Furthermore, ZATCA based its analysis on online purchase transaction made by the customer within the Kingdom, and then applied this analysis to include all three types of transactions mentioned above, considering that the interchange fees resulting from this type of transaction as subject to the standard VAT rate. Consequently, ZATAC applied the outcome of this analysis to the entire amount of the interchange fees, classifying thereof subject to the standard VAT rate. As for ZATCA's request for data indicating whether the other bank (transaction facilitator) has a branch within the Kingdom, the Bank expresses surprise at this request, arguing that ZATCA's consideration of the Bank's customer (facilitating bank) as a resident in the Kingdom, solely based on the presence of a branch within the Kingdom, lacks any legal Grounds, as the foreign bank's branch in the Kingdom operates as an independent entity separate from all branches outside the Kingdom. The Bank, regarding ZATCA's definition of interchange fees, confirms that these fees are collected by non-resident banks from non-resident merchants (sellers) and result from facilitating the collection of amounts due to these merchants when their products are sold via ... and... outside the Kingdom's geographical boundaries. The



bank's share of these fees, in its capacity as the card issuer, arises from ensuring the transfer of the amounts due into the accounts of these merchants at non-resident banks, based on the values of these amounts as stated in the statements of ... and ... companies. Accordingly, the nature of the services, operations, and associated fees (interchange fees) differs from the fees received by banks in other contexts. For instance, when a bank customer obtains ... and ... cards and conducts purchase transactions where payment is made using ... or ... cards, this results in two distinct types of services (supplies) and associated fees, which differ in nature and in the benefiting parties, as outlined below: 1. Fees received by the Bank from cardholders for the issuance of ... and... and for the utilization of the services provided therewith: The Bank issues the card to the customer in return for the agreed-upon fee under a contract signed between the Bank and the customer, in addition to a fixed annual fee, in exchange for the customer's utilization of the card's services, including using the card to pay for purchases from local merchants within the Kingdom or outside the Kingdom's geographical boundaries via ... and ... cards, as well as withdrawing cash from ATMs. In addition, the Bank issues tax invoices for these supplies (services) upon card issuance or upon the accrual of annual fees, and reports the same within the standard-rate taxable sales category in the company's tax returns. 2. Fees levied on merchants for utilizing the outstanding amounts transfer service: Facilitating banks collect these fees from merchants whether they are located within the Kingdom or abroad. Subsequently, the card-issuing bank receives its share of these fees, which are generated from facilitating the collection of owed amounts for these merchants upon the sale of their products through... and... The Bank's share arises from transferring the owed amounts to the merchants' accounts in the facilitating banks (within Saudi Arabia for local merchants and outside the Kingdom for foreign merchants), based on the value of these amounts as stated in the statements provided by ... And... companies. Accordingly, the nature of the sales resulting from these fees depends on the merchant's location: if the merchant is based within the Kingdom, the Bank reports these sales under standard-rate taxable sales in its tax returns; if the merchant is located outside the Kingdom, the fees are reported under zero-rated sales. Accordingly, the fees referred to in this paragraph are the transaction fees that fall under the interchange fees which are the subject of our dispute with ZATCA. In contrast, the fees mentioned in paragraph 1 are entirely separate and are reported by the Bank as standard-rated taxable sales in its tax returns. Consequently, the cardholder is not involved with the fees described in paragraph 2, and their location has no impact whatsoever on the nature of the transaction, which is solely determined by the customer's (facilitating bank's) location. As for ZATCA's perspective on the existence of a beneficiary within the Kingdom when a cardholder purchases goods or services online from outside the Kingdom while physically present in the Kingdom: ZATCA deemed the fees for this transaction subject to the standard-rate VAT due to the presence of a direct beneficiary within the Kingdom, in accordance with Article (33) of the Regulations. Paragraph (2.c) excludes from zero-rating those supplies made by a taxable person to a non-resident customer in any Member State. The Bank affirms that the fees it receives from merchants for utilizing the outstanding amounts transfer service, as detailed in the second point of the preceding paragraph, are unrelated to the cardholder and do not benefit them in any way. These fees are collected by resident banks from non-resident merchants (sellers) and result from facilitating the collection of amounts owed to these merchants upon the sale of their products through... and... outside the Kingdom's geographical boundaries. The Bank's share of these fees, in its capacity as the card issuer, arises from transferring the amounts due into the accounts of these merchants at non-resident banks, based on the values of these amounts as stated in the statements of ... and ... companies. The Bank asserts that when a cardholder purchases goods online, their direct benefit is limited to receiving the shipped goods, which are subject to tax upon importation into the Kingdom. It is untenable to consider the cardholder as directly benefiting from the interchange process, as these are transactions between banks and companies... and... Therefore, the interpretation of 'direct benefit' should not be expanded in this manner, as such an interpretation is entirely inconsistent with the spirit and objectives of the law. Otherwise, the legislator would



not have explicitly used the term 'direct'. Accordingly, the transactions are not subject to the provisions of any paragraph in Section (2) of Article (33) of the Regulations. The classification of these transactions by the company as zero-rated taxable sales is correct based on Section (1) of Article (33) of the Regulations. Regarding ZATCA's assertion of non-provision of the necessary information and documents related to these fees: The Bank affirms that it provided ZATCA with all the information and documents it requested during the assessment process. The Bank, regarding the cardholder's location at the time of transaction, maintains that it is impossible to determine the cardholder's whereabouts during the transaction. The Bank, concerning ZATCA's decision concerning other exports, and given that all other export transactions relate to services rendered by the bank to clients outside the Kingdom's territories, requests the revocation of the adjustments made by ZATCA to these transactions, along with the associated tax and additional fines. The Bank, with respect to ZATCA's decision to subject insurance expenses incurred on assets within the Murabaha financing product during January and December 2018, notes that ZATCA considered the full value of the insurance invoices as a deemed supply, without taking into account that the Bank applied proportional deduction to the insurance purchases on the Grounds that they were company expenses whose usage could not be determined. This matter does not require the Bank to submit any additional documents, as a review of the tax returns submitted by the Bank to the esteemed Authority would reveal the deduction percentage applied by the company to its taxable purchases with undetermined usage, and verify that these insurance expenses are included within the schedules of such purchases, thereby confirming the tax deducted by the Bank on these transactions. Therefore, ZATCA deemed that the bank had made a deemed supply to its customers, and thus, should have charged the company with the VAT only on the deducted portion, rather than on the full tax amount paid on the insurance invoices, based on Paragraph (8) of Article (15) of the Regulations. Regarding ZATCA's decision to classify scrap revenue – income from other activities – as standard-rated local taxable sales for the tax periods of December 2018/2019: ZATCA did not clarify the basis for the assessment calculation, so the bank attempted to reconcile the figures included in the assessment by calculating discrepancies between the company's financial statements for 2018 and 2019. A comparison was made between the revenue figures contained therein and the revenue declared in the Value-Added Tax (VAT) returns. However, the bank found that the discrepancies do not align with the amounts stated by ZATCA in its final assessment. Since ZATCA failed to clarify the basis for the assessment, and whereas Paragraph (2) of Article (64) of the Regulations explicitly stipulates that assessments must not be arbitrary and that the Authority must disclose the basis of calculation, the bank requests the revocation of the adjustments made to these sales, along with the associated taxes and fines. As for ZATCA's exclusion of real estate financing purchases for the tax periods: October, November, and December 2019: The bank expresses its surprise at ZATCA's response regarding the non-submission of tax invoices for purchases, and affirms the existence of documentation substantiating the purchase transactions and the value of the tax due on each transaction. The bank also confirms that it has provided ZATCA with all requested documents and invoices, samples of which are attached hereto. The bank further confirms that these purchases are directly related to standard-rated taxable supplies, namely the financing of its customers' purchase of assets under Islamic finance products. Moreover, the bank has duly declared the output tax attributable to these products in its tax returns. Accordingly, the Company is entitled to deduct the tax on such purchases in accordance with Article (8) of the Common VAT Agreement of GCC States and Article (49) of the VAT Regulations, particularly Paragraphs (1) and (7) thereof. The bank, concerning the late payment fine, settled the principal tax amount on 31/03/2020 to facilitate the submission of its objection, and ZATCA, on other hand, has since indicated that the imposed fines were waived in accordance with Ministerial Decision No. (2030) dated 07/06/1442 AH. On Thursday, 12/05/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH.



Having called parties to case, ... Plaintiff's representative (Saudi National), under POA No. (...) holder of National ID No. (...), ...attended..... (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated ../03/1442 AH, issued by the Deputy Governor for Legal Affairs. At the outset of the session, Plaintiff's representative presented six points, as outlined in his memorandum, detailing the nature of the disputed zero-rated sales. The Department heard detailed arguments from both parties regarding the first two items. Concerning the remaining four points, Plaintiff's representative requested an adjournment to submit a comprehensive memorandum elucidating these four points. Plaintiff's representative further stated that he demands Defendant clarify the reasons for excluding the purchases item despite having submitted the relevant invoices. In response, Defendant's representative stated that they adhere to the submissions made in the case. Consequently, the Department decided to adjourn the session until June 20th at 5:00 PM, provided that Plaintiff submit a comprehensive and final memorandum detailing all claims and demands, accompanied by all relevant legal Grounds, no later than May 26th, to be reviewed by Defendant, and file their memorandum of reply by June 2nd, structured to follow the same sequence as Plaintiff's memorandum and including all legal Grounds cited therein.

Plaintiff further submitted a memorandum of reply, the gist of which is as follows: The value of other exports that ZATCA subjected to the standard VAT during this tax period is as follows:

year	month	Foreign Bank fi charges	Export lc Confirmation Charges on issuer	Fees on Loans to Non-resident	Charges Deducted from overseas beneficiary	Lc related charges
2018	Aug.	2,034,186.71	3,388.13	-	21,337.49	100,525.76

The bank explained the nature of these exports in both its appeal petition and memorandum of reply in response to ZATCA's Memorandum (1). The bank, at the Committee's request, attempted to obtain supporting documents verifying its explanation of the aforementioned transactions' nature. However, it was unable to secure adequate documentation due to the merger of bank... with... and the departure of most of the administrative and accounting team who had handled these transactions at ... Bank during 2018–2019. Consequently, procuring these supporting documents would require considerable time, and procurement within the allotted period proved unfeasible.

Furthermore, Defendant, ZATCA, submitted a memorandum of reply, which included the following: 1. Firstly, ZATCA wishes to emphasize to the esteemed Department Plaintiff's failure to comply with the submission requirements set during the previous session. ZATCA diligently followed up and coordinated with the General Secretariat of Tax Committees to ascertain receipt of the required documents, in order to prepare and submit the necessary response within the timeframe specified by the honorable Department. Additionally, ZATCA further notes that Plaintiff's delay in submitting their response prevented it from adequately and sufficiently reviewing the memorandum of reply and its accompanying documents within the required timeframe, as no documents were received by 05/06/2022. 2. Following a review of all contents within Plaintiff's memorandum of reply, and upon detailed examination of the accompanying documents, it has been determined that they are confined to several points, summarized by ZATCA's response as follows: (A) Standard-Rated Taxable Purchases (Real Estate Financing Purchases): - ZATCA affirms that Plaintiff failed to present any substantive additions under this item that could disprove its findings in its decision. Whereas, Plaintiff's memorandum of reply primarily consists of a recitation of relevant regulatory texts, an explanation of the nature of the purchases for which they seek deduction, and (5) pages detailing ZATCA's exclusions from the standard rated local taxable purchases item. -ZATCA finds it pertinent to emphasize that the fundamental requirement for input tax deduction is the taxpayer's possession of valid supporting documents—specifically, tax invoices obtained from suppliers—to substantiate the claimed purchases. The Common VAT Agreement of GCC States and VAT Implementing Regulations



clarify that the absence of a tax invoice does not inherently negate the taxpayer's right to deduct incurred input tax; rather, it permits the submission of alternative commercial documents, subject to ZATCA's discretionary evaluation. - Based on the foregoing, Plaintiff failed to submit any supporting documents to substantiate their claims regarding the purchases for which they seek deduction. Notably, Plaintiff is claiming input tax deductions exceeding the amounts reflected in their own records. For instance, with respect to Contract No. ..., Plaintiff claims an input tax deduction of SAR (121,071.45), whereas they only incurred SAR (78,571.45), representing a difference of SAR (42,500). This difference precisely equals the tax borne by the government on behalf of citizens for first home purchases. - In light of all the foregoing, ZATCA maintains the validity and integrity of its decision regarding this item and affirms Plaintiff's lack of entitlement to claim and deduct input tax for the reasons detailed above. (B) Standard-Rated Local Taxable Sales (Scrap Revenue - Income from Other Activities): An examination of Plaintiff's memorandum of reply reveals that the defenses and explanations provided therein do not substantively depart from the arguments presented in Plaintiff's statement of claim and ZATCA, in its first memorandum of reply, had already fully addressed and clarified this matter. Consequently, it is established from the documents and memoranda within the case file that ZATCA furnished a complete explanation of the Grounds underpinning its decision to subject scrap revenue to the standard-rate taxable sales. Moreover, ZATCA affirmed that such revenues are subject to the standard tax rate, in accordance with Article (14) of the VAT Implementing Regulations. Conversely, Plaintiff failed to substantiate otherwise, namely the non-taxability of these revenues. (C) Standard-Rated Local Taxable Sales (Insurance Expenses Incurred on Assets in Murabaha Financing Products): - Plaintiff failed to introduce any new substantive arguments regarding this item. Instead, they requested the esteemed Department to reduce the amount that ZATCA classified under standard-rated local taxable sales, claiming it constitutes a "deemed supply" under Paragraph (8) of Article (15) of the Implementing Regulations. In response, ZATCA states accepting Plaintiff's argument, as presented in their response, poses significant risks regarding Plaintiff's potential to re-charge these expenses to customers within periodic installments. As it is known to Your Honor, financing contracts typically include a clause stipulating the borrower's responsibility for insurance costs, which constitutes services provided for consideration. Therefore, Plaintiff's perspective of considering thereof as deemed supply is untenable, as deemed supplies are provided without consideration—particularly since Plaintiff failed to submit the relevant contracts to ZATCA for examination and verification of Plaintiff's claims. (D) Other Exports Subjected to VAT by ZATCA: - Plaintiff, under their memorandum of reply, acknowledged their inability to provide and clarify supporting documents and requested the esteemed Department to consider the circumstances that befell Plaintiff's entity and their legal form due to mergers and similar events. They stated that they were unable to obtain the documents due to the departure of most of the administrative and accounting teams. Subsequently, they asserted their possession of these documents but indicated their inability to present thereof to the esteemed Department. It must be stated that Plaintiff's reliance on the merger circumstances cannot, under any circumstances, be accepted as a valid excuse, as the merger does not exempt the merged entities from their legal obligations under the relevant laws, including Article (36) of the Value Added Tax Law, Article (66) of its Implementing Regulations, and Articles (1), (6), and (8) of the Commercial Books Law. This is particularly true given that Plaintiff is fully aware of the importance of those documents and the necessity of presenting them to substantiate their claims. Furthermore, ZATCA had previously requested these documents, making it incumbent upon Plaintiff to endeavor to obtain and submit thereof prior to initiating their case. (E) Variance Between Disclosed Fees and Total Fees in Financial Statements: - Plaintiff submitted documents demonstrating a prior settlement presented to ZATCA during the examination phase, which cannot, by its nature, be accepted without considering the supporting documentation. Conversely, ZATCA emphasizes that Plaintiff was obligated to provide further supporting documents to prove that these fees relate to previous years, through the submission of a detailed statement



substantiating their claims, specifying the years or periods to which they allege the variance pertains. Consequently, Plaintiff's failure to substantiate their claim regarding this item affirms the validity and soundness of ZATCA's decision based on the clarifications and documents submitted by Plaintiff. This concludes Defendant's response.

On Monday, 20/06/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Decree (26040) dated 21/14/1441 AH. Having called parties to case, attorney of the Plaintiff/ appeared, (Saudi National), under POA No. (...) holder of National ID No. (...), ...attended..... (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated 08/03/1442 AH, issued by the Deputy Governor for Legal Affairs. Both parties, at the beginning of the session, reviewed the submitted memoranda. When asked if they had anything further to add, both parties stated that they were satisfied with their earlier submissions. Consequently, the Department requested Plaintiff's representative to provide a detailed breakdown, with figures, for the interchange fees, categorized by the amounts corresponding to each type of transaction as follows: 1. A cash withdrawal transaction conducted outside the Kingdom by the cardholder; 2. A purchase transaction conducted by the cardholder while outside the Kingdom from a foreign merchant; 3. A purchase transaction conducted by the cardholder while in the Kingdom from a foreign merchant via online platforms. These cases are to be detailed separately, in accordance with the tax periods in question. Additionally, the documents must be submitted before 11:00 AM on June 26th, and the hearing was adjourned to June 29th at 5:00 PM.

The Plaintiff also submitted a three-page memorandum of reply, the essence of which was a breakdown of the interchange fees reported as part of the zero-rated taxable exports for the tax periods of 2018 and 2019. The memorandum also included amounts related to ... Commercial Bank, the merging bank of ... Bank, which demonstrates the distribution volume of transactions conducted outside the Kingdom's territory via ... and... issued by ... in 2018 and 2019. The interchange fees were calculated based on these transactions by and ... companies.

Furthermore, Defendant, ZATCA, submitted a memorandum of reply, which included the following: Upon reviewing the case file and the submission made by Plaintiff following the honorable Department's directive to provide a detailed breakdown, with figures, for the item of interchange fees, categorized by the amounts corresponding to each type of transaction as recorded in the session minutes — in addition to detailing each case separately in accordance with the tax periods in question— ZATCA summarizes its response as follows: 1. ZATCA hereby reiterates and adheres to all the defenses stated in its memoranda filed within the case file. 2. ZATCA would like to emphasize to the esteemed Department that Plaintiff's continued argumentation and excuse based on the circumstances of the merger constitutes an unproductive defense, given that the merger does not exempt entities from their legal obligations. This is particularly pertinent given that the honorable Department granted Plaintiff two consecutive sessions to provide the required documentation, yet Plaintiff failed to do so—despite being fully aware of the importance and submitting thereof ever since ZATCA previously requested the same documents at all stages of the tax return examination. 2. Following a review of all contents within Plaintiff's memorandum of reply, ZATCA wishes to append its previous defenses thereto and clarify several important points as follows: (A) Standard-Rated Taxable Purchases (Real Estate Financing Purchases): - ZATCA affirms that the approach adopted by Plaintiff is unfounded, relying on the second hearing session, where Plaintiff's representative presented several fallacies that warrant examination and clarification for the esteemed Department to elucidate the correct tax treatment concerning the first home exemption, particularly in light of Murabaha financing agreements. in addition, ZATCA clarifies the correct treatment as follows: 1. The sale transaction that takes place from the property owner (seller) to the bank (financier) is naturally subject to the standard VAT if the seller is VAT-registered. The first-home exemption does not apply at this stage to the transaction between the seller and the financier due to the non-applicability of the



conditions of Royal Order No. (A/86) dated 18/04/1439 AH to the financier, as the financing bank does not qualify as an end consumer (first transaction). 2. If the buyer (the customer — the "final consumer") presents a First Home Exemption Certificate, the financier (supplier) is then required to apply the exemption to that transaction — i.e., the second transaction between the buyer and the financier. 3. It is worth emphasizing that the financier (supplier), by possessing the First Home Exemption Certificate, becomes authorized to claim the VAT amount — up to a maximum of SAR (42,500), pursuant to the above-mentioned Royal Order — from the Ministry of Housing. Any remaining VAT amount beyond this threshold must be collected from the consumer through the financing installment payments. - Plaintiff's representative stated that the bank treats the First Home Exemption Certificate in the aforementioned transactions as equivalent to (cash/commercial papers), with which ZATCA disagrees, as the First Home Exemption Certificate is issued strictly for the purpose of implementing the aforementioned Royal Order and is specifically intended to fall under the jurisdiction of the Ministry of Municipal and Rural Affairs and Housing to ensure an orderly application of the Royal Order for the benefit of citizens. Under no circumstances may this document be expansively interpreted or imbued with the characteristics of commercial papers or execution deeds. For commercial papers or execution deeds to have their recognized legal status, they must be in written form and contain specific required elements. Such formalities are essential to ensure the ease of its circulation and the certainty of payment upon maturity, which grants it its legal strength and evidentiary weight for the bearer. This position underscores Plaintiff's fundamental misinterpretation and confusion, which, in turn, resulted in the submission of documents that were neither accurate nor aligned with the relevant financial statements. Plaintiff erroneously treated the First Home Exemption Certificate as a commercial paper subject to collection, disregarding the essential legal principle that commercial papers must represent a specified monetary amount and defined payment terms. - ZATCA further clarifies that the parties involved in the First Home Exemption Certificate are the customer (final consumer), the supplier, and the Ministry of Housing. The validity of the certificate is limited to these parties and the established principle underlying this certificate is the recovery of output tax from the Ministry of Housing, which was borne by one of the parties — this being the sole purpose for which the certificate was issued. Accordingly, Plaintiff's approach of treating this certificate as a substitute for input VAT constitutes a misapplication and an irregular procedure that lacks any supporting evidence. (B) Other Exports Subjected to VAT by ZATCA: - ZATCA clarified in several instances that Plaintiff has entirely failed to substantiate the validity of their claims under this item. Despite the honorable Adjudicating Department granting Plaintiff a second extension and directing them to submit all supporting documents that could serve to prove the claims and defenses raised under this item, Plaintiff failed to provide an adequate response—either technically or legally. Instead, Plaintiff continued to elaborate on its previous merger with ... Commercial Bank - formerly - considering it a sufficient reason to relieve themselves of the burden of proof, in violation of the statutory provisions and rules of the Law of Evidence, which stipulates in Article (2) the following: "The burden of proof rests with the plaintiff to establish their asserted right, while the defendant is entitled to deny the same." Thus, it becomes evident to the esteemed Department the validity of ZATCA's decision in its conclusions, especially as ZATCA adhered to presenting all findings to refute Plaintiff's unsubstantiated claims throughout their statement of claim and subsequent memoranda of reply. - Plaintiff submitted a clarification regarding the volume of transactions conducted outside the Kingdom, but solely through the statements of Plaintiff stated that "the statements received from the two companies, ... and... cannot distinguish whether the cardholder was inside or outside the Kingdom at the time of making an online purchase, or whether the purchased services or goods were consumed inside or outside the Kingdom". Simultaneously, Plaintiff failed to attach any legally admissible document as evidence to substantiate their claims. Consequently, all arguments presented in Plaintiff's memorandum amount to mere assertions—lacking the evidentiary weight required to overturn ZATCA's findings. - Plaintiff further asserted that "the disputed fees are deducted from the supplier based



on the sales transactions carried out—not from the cardholder—and thus, overseas fees, (whether on in-store or online purchases) are charged to the merchant or seller who benefited from the service abroad. Consequently, the cardholder's location has no bearing on the transaction or commission”. Conversely, ZATCA refutes this claim, emphasizing that the cardholder is in fact the actual customer; had the cardholder not carried out a purchase or withdrawal transaction, Plaintiff would not have received the commission generated from such transactions. This concludes Defendant's response.

On Wednesday, 29/06/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to case, ... Plaintiff's representative (Saudi National), under POA No. (...) holder of National ID No. (...), ...attended..... (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated 08/03/1442 AH, issued by the Deputy Governor for Legal Affairs. At the beginning of the session, in response to the Department's inquiry regarding whether the parties wished to add anything further to the case, Plaintiff's representative stated that he was satisfied with the earlier submissions. However, on the other hand, Defendant's representative expressed their wish to present a final memorandum during this session in response to Plaintiff's most recent memorandum. Consequently, the Department accepted the submission and provided a copy to Plaintiff's representative, granting a brief adjournment for review and response, and inquiring whether further time for response was desired. Thereafter, Plaintiff's representative stated that he had reviewed the memorandum presented during this session and considered Defendant's contentions therein to be incorrect, particularly concerning purchases and the First Home Exemption Certificate. He argued that the bank does not have the authority to exempt the customer from paying VAT and further added that their client had submitted what they deemed sufficient supporting documents, considering the circumstances, and concluded that he would suffice with the current submissions. When asked if either party wished to add anything further, both parties stated that they would rely on what has already been submitted. Accordingly, the Department decided to adjourn the session for deliberation and issue a decision.

Grounds

The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, side by side with relevant laws and regulations.

In Form, Since Plaintiff filed this Case for the purpose of challenging Defendant's final reassessment for the VAT period of August 2018, based on Value Added Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes as per Royal Decree No. (M/113) dated 2/11/1438 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits, having examined case papers and response of parties thereto after giving them sufficient time to express and submit necessary documents, the Department established that Defendant issued its decision regarding the final reassessment for the VAT period of August 2018,



and imposed fines for submission of incorrect tax return and late payment. The following was determined:

First: Standard-Rated Taxable Exports: The dispute centers on the Defendant's amendment of the zero-rated taxable exports, on the Grounds that it did not comply with the conditions set forth in Article (33) of the Implementing Regulations of the VAT Law.

Plaintiff, regarding the interchange fees (International Scheme Operator), objects to Defendant's application of the standard VAT rate to these fees, arguing that such fees are related to facilitating purchases made outside the Kingdom by foreign banks on behalf of holders of ... and ... Cards. Plaintiff asserts that they collect interchange fees in their as the card issuer, associated with facilitating purchase payments outside the Kingdom's territory by foreign banks. Furthermore, they argued that these fees are not collected from their clients but rather from ... and ... based on reciprocal services, which, according to Paragraph (1) of Article (33) of the Implementing Regulations of the VAT Law, are subject to the zero-rated export category. Upon reviewing the case file and the supporting documents submitted, and in light of the nature of the disputed interchange fees, it is evident that the beneficiaries of the interchange fee revenue are: 1. The ATM cardholder, as the fundamental party to the transaction—since without the cardholder's use of Plaintiff's payment method (the bank card), the bank would not have received the commission. 2. – The service facilitator (non-resident bank). 3. ... and ... (As the coordinating entity for interbank fund settlement among member banks) (Client). 4. The foreign merchant (as part of the transaction).

It is also evident that the transactions involving the benefit of these parties are represented in the following:

- 1- A cash withdrawal from an ATM outside the Kingdom by the cardholder: It is evident to the Department, upon reviewing the documents submitted in the case file, that Plaintiff collects the commission from the customer (...), who is a non-resident, as a result of securing the amounts withdrawn by the cardholder (located outside the Kingdom) from the foreign bank (resident outside the Kingdom), with Plaintiff acting as the card issuer. Accordingly, the service and benefit to the three parties involved took place outside the Kingdom. In principle, the Department finds that the commission received by Plaintiff should be subject to the zero rate. However, Plaintiff did not provide the specific amounts under this item, for which they seek to have taxed at 0%, making it impossible for the Department to determine the amounts with the necessary clarity and certainty. Therefore, based on the foregoing, the Department concludes to dismiss Plaintiff's claim in this regard.
- 2- Purchases made by the cardholder outside the Kingdom from a foreign merchant: It is evident to the Department, upon reviewing the documents submitted in the case file, that Plaintiff collects the commission from the customer (...), who is a non-resident, as a result of securing the settlement amounts for purchases made by the cardholder (located outside the Kingdom) to the foreign merchant (also non-resident) through the foreign bank (service facilitator). Accordingly, the service and benefit to all four parties occurred outside the Kingdom. In principle, the Department finds that the commission received by Plaintiff should be subject to the zero rate. However, Plaintiff did not provide the specific amounts under this item, for which they seek to have taxed at 0%, making it impossible for the Department to determine the amounts with the necessary clarity and certainty. Therefore, based on the foregoing, the Department concludes to dismiss Plaintiff's claim in this regard.
- 3- Purchases made by the cardholder while physically present in the Kingdom from a non-resident merchant via a foreign online store: It is evident to the Department, upon reviewing the documents submitted in the case file, that Plaintiff collects the commission from the customer (...), who is a non-resident, as a result of securing the settlement amounts for purchases made by the cardholder (located inside the Kingdom) to the foreign merchant (also non-resident) through the foreign bank (service facilitator). Accordingly, the service and benefit to all three parties (the client ..., ..., the foreign bank, and the foreign merchant), occurred outside the



Kingdom, while the benefit was also realized inside the Kingdom (by the cardholder, who is the fundamental party to the transaction—since without the cardholder’s use of Plaintiff’s payment method, the bank would not have received the commission). Furthermore, Article (33) of the Implementing Regulations of the VAT Law states: “a Supply of services made by a Taxable Person to a Customer without a Place of Residence in any Member State shall be zero-rated. The first Paragraph of this Article shall not be applicable in any of the following cases: a) If the place of Supply of the services is in any Member State pursuant to the Special Cases listed in Articles seventeen to twenty-one of the Agreement; b) Where a taxable person does not have evidence that the Customer is a Resident of any Member State and holds evidence that they are resident outside the GCC states. c) If the Customer or any other Person benefits directly from the services when such Customer or Person is situated in a Member State. d) If the services are performed in relation to tangible Goods which are located within a Member State during the Supply. e) The taxable person intends for the services to be consumed by the customer outside the territory of the GCC states. f) The taxable person lacks evidence that the services will be utilized within the territory of the GCC states. Accordingly, the resident cardholder in the Kingdom is considered another beneficiary, constituting Plaintiff’s violation of Paragraph (2.c) of the aforementioned Article. Since Plaintiff did not submit any documents proving otherwise, the Department, based on the foregoing, concludes to dismiss Plaintiff’s claim in this regard.

- B. Regarding other exports, it is evident that the dispute lies in Defendant’s decision to subject other exports to tax, as Plaintiff has failed to provide evidence proving that the sales in question represent the export of services. Upon reviewing the facts of the case, it is evident that the exports include five services, as follows:
1. Foreign Bank FI charges: Plaintiff’s claim lies in taxation of the amount related to this item at 0%, as it appears that the resident supplier in the Kingdom benefits as another party from this service due to its connection to facilitating the collection of dues owed by the resident supplier for its supplies to the non-resident foreign customer. However, Plaintiff failed to submit sufficient documentation to substantiate their claim. Based on Article (33) of the Implementing Regulations of the VAT Law, which states: “a Supply of services made by a Taxable Person to a Customer without a Place of Residence in any Member State shall be zero-rated. The first Paragraph of this Article shall not be applicable in any of the following cases: a) If the place of Supply of the services is in any Member State pursuant to the Special Cases listed in Articles seventeen to twenty-one of the Agreement; b) Where a taxable person does not have evidence that the Customer is a Resident of any Member State and holds evidence that they are resident outside the GCC states. c) If the Customer or any other Person benefits directly from the services when such Customer or Person is situated in a Member State. d) If the services are performed in relation to tangible Goods which are located within a Member State during the Supply. e) The taxable person intends for the services to be consumed by the customer outside the territory of the GCC states. f) The taxable person lacks evidence that the services will be utilized within the territory of the GCC states.” For the foregoing reasons, the Department concludes to dismiss Plaintiff’s claim in this regard.
 2. Export LC Confirmation charges on Issuer: Plaintiff’s claim lies in taxation of the amount related to this item at 0%, as it appears that the resident supplier in the Kingdom benefits as another party from this service due to its connection to facilitating the collection of dues owed by the resident supplier for its supplies to the non-resident foreign customer. However, Plaintiff failed to submit sufficient documentation to substantiate their claim. Based on Article (33) of the Implementing Regulations of the VAT Law, which states: “a Supply of services made by a Taxable Person to a Customer without a Place of Residence in any Member State shall be zero-rated. The first Paragraph of this Article shall not be applicable in any of the following cases: a) If the place of Supply of the services is in any Member State pursuant to the Special Cases listed in Articles seventeen to twenty-one of the Agreement; b) Where a taxable person does



not have evidence that the Customer is a Resident of any Member State and holds evidence that they are resident outside the GCC states. c) If the Customer or any other Person benefits directly from the services when such Customer or Person is situated in a Member State. d) If the services are performed in relation to tangible Goods which are located within a Member State during the Supply. e) The taxable person intends for the services to be consumed by the customer outside the territory of the GCC states. f) The taxable person lacks evidence that the services will be utilized within the territory of the GCC states.” For the foregoing reasons, the Department concludes to dismiss Plaintiff’s claim in this regard.

3. Fees on Loans to non-resident: Upon reviewing the submissions in the case, it is evident that Plaintiff did not provide any document to verify the nature of the service and confirm its eligibility for the zero percent rate. Instead, Plaintiff merely indicated that this service pertains to loan fees granted to non-residents in the Kingdom. In light of the foregoing, the Department concludes to dismiss Plaintiff’s claim in this regard.
4. Charges deducted from overseas beneficiary: Plaintiff’s claim in this regard is based on subjecting the amount related to this item to the zero percent rate. However, since Plaintiff failed to submit the documents necessary to support their claim, the Department concludes — based on the foregoing— to dismiss Plaintiff’s claim in this regard.
5. LC related Charges: Plaintiff’s claim lies in taxation of the amount related to this item at 0%, as it appears that the resident customer in the Kingdom benefits as another party from this service due to its connection to facilitating the collection of dues owed by the resident supplier for its supplies to the non-resident foreign customer. However, Plaintiff failed to submit sufficient documentation to substantiate their claim. Based on Article (33) of the Implementing Regulations of the VAT Law, which states: “a Supply of services made by a Taxable Person to a Customer without a Place of Residence in any Member State shall be zero-rated. The first Paragraph of this Article shall not be applicable in any of the following cases: a) If the place of Supply of the services is in any Member State pursuant to the Special Cases listed in Articles seventeen to twenty-one of the Agreement; b) Where a taxable person does not have evidence that the Customer is a Resident of any Member State and holds evidence that they are resident outside the GCC states. c) If the Customer or any other Person benefits directly from the services when such Customer or Person is situated in a Member State. d) If the services are performed in relation to tangible Goods which are located within a Member State during the Supply. e) The taxable person intends for the services to be consumed by the customer outside the territory of the GCC states. f) The taxable person lacks evidence that the services will be utilized within the territory of the GCC states.” For the foregoing reasons, the Department concludes to dismiss Plaintiff’s claim in this regard.

Second: Item (Fine for Submission of Incorrect Tax Return): The Department concluded to dismiss Plaintiff’s claim challenging Defendant’s decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fine under dispute is a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling. Accordingly, it is evident that Plaintiff erred in submitting the tax return. Paragraph (1) of Article (42) of the Value Added Tax Law states: “Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due”. Accordingly, the Department concludes to dismiss Plaintiff’s claim in this regard.

Third: The Department, regarding the late payment fine, concluded to dismiss Plaintiff’s claim challenging Defendant’s decision to conduct a final reassessment for the tax period in question—thereby affirming the validity of the decision—and since the associated fine under dispute is a result of and linked to this reassessment. Therefore, related matters follow the same legal ruling. Accordingly, it is evident that Plaintiff delayed in submitting the tax return within the statutory



period. Article (43) of the Value Added Tax Law states: “Any person who fails to pay the tax due within the period specified by the Regulations shall be subject to a fine equal to 5% of the amount of the unpaid tax for each month or part thereof for which the tax is not paid”. For the foregoing reasons, the Department concludes to dismiss Plaintiff’s claim in this regard.

Based on the above, and after deliberation, the Department unanimously decided as follows:

Decision:

- To dismiss the Plaintiff case.

This decision was issued in the presence of both parties, and the date of depositing the decision in the e-system of the General Secretariat of Zakat, Tax and Customs Committees is considered the date of delivery of the decision. The parties to the case may request to appeal against the decision as per the law within thirty (30) days from the day following the date specified for its receipt, whereafter, the decision will be final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

Third Department to Adjudicate Value Added Tax
Violations and Disputes Riyadh

Decision No. (VTR-2022-1235)
Delivered in Case No. (V-
75056-2021)

Key words:

Value Added Tax – Field Inspection Fine – Failure to Present Tax Certificate – Gradation of Violations Related to Field Visits and E-Invoicing – Statutory Period – A Warning Shall Suffice for Taxpayer's First Violation.

Abstract

Plaintiff seeks annulment of ZATCA's decision regarding the field inspection fine for Violation No. (...), resulting from the failure to present the tax certificate, amounting to SAR (10,000). Thereafter, ZATCA responded as follows: An on-site inspection was conducted at Plaintiff's premises, during which a violation of the Implementing Regulations of the VAT Law was observed. The Department determined, based on ZATCA's Board of Director's decision, that a graduated scale has been established for violations related to field visits and e-invoicing, whereby a warning shall suffice for taxpayer's first violation, with penalties escalating in severity upon repetition. Furthermore, Defendant's representative stated that this is the company's first violation. Therefore, the Department ruled to accept the Case in form, amend Defendant's decision from a fine to a warning, and consider the decision final and enforceable.

Instruments:

- Article (45/3) of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- Article (8/8) of [the Implementing Regulations of the Value Added Tax Law issued by decision of ZATCA Board No. \(3839\) on 14/12/1438 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Tuesday, 19/07/2022, the Third Department for Adjudication of VAT Violations and Disputes in Riyadh, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/11/1425 AH as amended, and constituted pursuant to Royal Order No. (17218) dated 27/03/1442 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 11/12/2021.

Facts of this Case are summed up in that Plaintiff Co., CR No. (...), represented by ..., National ID No. (...), in his capacity as Plaintiff's legal representative, filed a statement of claim challenging Defendant's decision imposing a field inspection fine for Violation No. (...), resulting from the failure to present the tax certificate, amounting to SAR (10,000), and requesting the annulment of this decision.



By presenting this to the Defendant, ZATCA submitted a response memorandum stating the following: An on-site inspection was conducted at Plaintiff's premises on 08/09/2021, revealing a violation of Paragraph (8) of Article (8) of the Implementing Regulations of the VAT Law, specifically the failure to present the tax certificate. Accordingly, a fine of SAR (10,000) was imposed under Decision No. (48000065966), pursuant to Paragraph (3) of Article (45) of the VAT Law. Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response.

On Sunday, 15/05/2022, the session was held via video conference in accordance with the remote video litigation procedures based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to case, ... (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated 08/03/1442 AH, issued by the Deputy Governor for Legal Affairs. However, neither Plaintiff nor their representative appeared, despite being legally notified of the session date. In light of the foregoing, the Department unanimously resolved to quash the case in accordance with Article (20) of Tax Dispute and Violation Committee Procedures.

On 15/05/2022, Plaintiff submitted a request to reopen the Case.

On Tuesday, 19/07/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to case, ... Plaintiff's legal representative, Saudi National under National ID No. (....), appeared in his capacity as the company's legal representative under AOA. Additionally, ...attended..... (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated 18/10/1443 AH issued by the Deputy Governor for Legal Affairs. Having asked Plaintiff regarding their case, they responded by affirming the contents of the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees. When questioned regarding his response, Defendant's representative affirmed reliance on the arguments presented in the memorandum of reply. Plaintiff's representative further stated that this is the company's first violation, a fact confirmed by Defendant's representative when presented with this information. When asked if either party wished to add anything further, both parties stated that they would rely on what has already been submitted. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, side by side with relevant laws and regulations.

In Form, Since Plaintiff filed this Case for the purpose of challenging Defendant's decision regarding the field inspection fine for Violation No. (48000065966), based on the Value Added Tax Law and its Implementing Regulations, and since this dispute falls within the jurisdiction of the Committee for Resolution of Tax Violations and Disputes as per Royal Decree No. (M/113) dated 2/11/1438 AH, and since the



case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits, having examined case papers and response of parties thereto after giving them sufficient time to express and submit necessary documents, the Department established that the dispute arises from Defendant's imposition of a field inspection fine against Plaintiff in the amount of SAR (10,000) for Violation No. (...), resulting from the failure to present the tax certificate. Upon reviewing the facts of the case, and considering the established issuance of ZATCA's Board of Director's decision, effective as of 30/01/2022, encompassing the reclassification of violations and their corresponding penalties, whereby a graduated scale has been established for violations related to field visits and e-invoicing, whereby a warning shall suffice for taxpayer's first violation, with penalties escalating in severity upon repetition. Furthermore, the BoD is authorized by law to issue such decision, which seeks to fulfill one of the objectives of the law, particularly Article (48), which mandates the necessity of proportionality between the violation and the penalty, as well as the stipulated requirement for a gradual approach in imposing penalties and issuing a warning prior to any punitive action, and since Defendant's representative confirmed that this was the company's first violation, the Department concludes that the penalty for the violation in question shall be amended to a warning.

In light of the above the Grounds and after deliberation, the Department unanimously decided the following:

Decision:

- Amend Defendant's, ZATCA, decision regarding the penalty for Violation No. (...), subject of the case, from a fine to a warning.

This decision was delivered in the presence of both parties. The date on which the decision was entered into the e-system of the General Secretariat of Zakat, Tax, and Customs Committees shall be considered the date of decision delivery. The decision is deemed final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

Third Department to Adjudicate Value Added Tax Violations and Disputes Riyadh

Decision No. (VTR-2022-1237)
Delivered in Case No. (V-79288-2021)

Key words:

Value Added Tax - VAT Late Registration Fine - Exceeding the Mandatory Registration Threshold for Supplies - Non-Productive Defenses in the Case - Statutory Period.

Abstract

Plaintiff seeks annulment of ZATCA's decision regarding the VAT late registration fine, amounting to SAR (10,000). Thereafter, ZATCA responded as follows: Upon reviewing Plaintiff's data on Ejar platform, it was evident that their supplies exceeded the mandatory registration threshold. Based on the foregoing, it is clear that the imposition of a VAT late registration fine on Plaintiff is valid. Whereas, the Department established that Plaintiff failed to provide evidence substantiating their claim or contradicting Defendant's decision to impose the fine due to their failure to register within the statutory period after their supplies reached the mandatory registration threshold, as per Plaintiff's data on Ejar platform. Furthermore, Plaintiff's defenses, stating that the tenant of the commercial property unit did not pay the rent or the tax, are deemed non-productive in this case. In light of the above, the Department concludes to dismiss Plaintiff's claim in this regard. Therefore, the Department ruled to dismiss Plaintiff's case and consider the decision as final and enforceable.

Instruments:

- Article (50/2) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Article (41) of [Value Added Tax Law issued by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Paragraph (1) of Article (3), Articles (6), (56), and (79/9) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of Directors of the General Authority of Zakat and Income -formerly- No. \(3839\) dated 14/12/1438 AH.](#)
- Article (15.2) of [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Sunday 24/07/2022, the Third Department for Adjudication of VAT Violations and Disputes in Riyadh, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Order No. (17218) dated 27/03/1442 AH to consider the aforementioned case. As the case has met the prescribed legal



requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 26/10/2021.

Facts of this case are summarized that Plaintiff/, holder of National ID No. (.....), acting on his own behalf, filed a statement of claim challenging Defendant's decision regarding the imposition of a VAT late registration fine, amounting to SAR (10,000), and requesting annulment of the decision.

By presenting this to the Defendant, ZATCA submitted a response memorandum stating the following: Paragraph (2) of Article (50) of the Common VAT Agreement of GCC States stipulates "The Mandatory Registration Threshold shall be SAR 375,000", and Paragraph (9) of Article (79) of the Implementing Regulations of the VAT Law states "a Person whose value of annual Supplies exceeds the Mandatory Registration Threshold but does not exceed one million (1,000,000) SAR is exempted from the requirement to register in the Kingdom until 1 January 2019. However, any application for such registration must be submitted that on or before 20 December 2018." Moreover, Article (3) of the Implementing Regulations of the VAT Law states "every Resident Person in the Kingdom who is not registered by the Authority must at the end of each month calculate the value of his Supplies made in the Kingdom within the twelve months then ended, in accordance with the requirements set out in the Agreement. In cases where this value exceeds the Mandatory Registration Threshold detailed in the Agreement, the Person must apply to the Authority to register within thirty (30) days of the end of that month pursuant to Article eight of these Regulations." Additionally, Article (6) of the Implementing Regulations of VAT Tax Law provides: "Where the Person has failed to make an application to the Authority as prescribed in these Regulations, the Authority may register such Person without submitting any application and such registration shall take effect from the relevant date prescribed under Articles three and four of these Regulations". Additionally, Article (56) of the Implementing Regulations of the VAT Law grants ZATCA the right to access the tax information held by third parties directly and on an ongoing basis. Upon reviewing Plaintiff's data on Ejari platform, it was evident that their supplies exceeded the mandatory registration threshold. In light of the foregoing, the VAT late registration fine was lawfully imposed in accordance with Article (41) of the VAT Law, which states: "Any Person who has not applied for registration within the period specified in the Regulations shall be fined ten thousand (10,000) riyals." Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response.

On Sunday, 24/07/2022, the session was convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to case, Plaintiff neither their representative appeared despite being legally notified, and Mr.... (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated 18/10/1443 AH, issued by the Deputy Governor for Legal Affairs. Having asked Defendant's representative about his response, he responded by adhering to contents of the memorandum of reply and for the validity to adjudicate the case, in accordance with Article (20) of Tax Dispute and Violation Committee Procedures. Consequently, the Department decided to adjourn the session for deliberation.

Grounds

The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax



Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, side by side with relevant laws and regulations.

In Form, Since Plaintiff filed this Case for the purpose of challenging Defendant's imposition of a VAT late registration fine of SAR (10,000), based on Value Added Tax Law and its Implementing Regulations, and since this dispute falls within the jurisdiction of the Committee for Resolution of Tax Violations and Disputes as per Royal Decree No. (M/113) dated 2/11/1438 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits, having examined case papers and response of parties thereto after giving them sufficient time to express and submit necessary documents, the Department established that Defendant issued its decision imposing a VAT late registration fine of SAR (10,000). Conversely, Plaintiff failed to provide evidence substantiating their claim or contradicting Defendant's decision to impose the fine due to their failure to register within the statutory period after their supplies reached the mandatory registration threshold, as per Plaintiff's data on Ejar platform. Furthermore, Plaintiff's defenses, stating that the tenant of the commercial property unit did not pay the rent or the tax, are deemed non-productive in this case. Additionally, Paragraph (2) of Article (50) of the Common VAT Agreement of GCC States stipulates: "The Mandatory Registration Threshold shall be SAR 375,000 (or its equivalent in the GCC State currencies). The Ministerial Committee has the right to amend The Mandatory Registration Threshold after it has been in force for three years". Paragraph (1) of Article (3) of the Implementing Regulations of the VAT states: "every Resident Person in the Kingdom who is not registered by the Authority must at the end of each month calculate the value of his Supplies made in the Kingdom within the twelve months then ended, in accordance with the requirements set out in the Agreement. In cases where this value exceeds the Mandatory Registration Threshold detailed in the Agreement, the Person must apply to the Authority to register within thirty (30) days of the end of that month pursuant to Article eight of these Regulations". In addition, Article (41) of the VAT Law stipulates "Any Person who has not applied for registration within the period specified in the Regulations shall be fined ten thousand (10,000) riyals". Based on the foregoing, the Department resolves to dismiss Plaintiff's claim in this regard.

In light of the above the Grounds and after deliberation, the Department unanimously decided the following:

Decision:

- To dismiss the Plaintiff case.

This decision was made in presence of parties, in accordance with the provisions of Article (56) of Law of Civil Procedures. The date on which the decision was entered into the e-system of the General Secretariat of Zakat, Tax, and Customs Committees shall be considered the date of decision delivery. The decision is deemed final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

Third Department to Adjudicate Value Added Tax
Violations and Disputes Riyadh

Decision No. (VTR-2022-1238)
Delivered in Case No. (V-
79582-2021)

Key words:

Value Added Tax – Field Inspection Violation – Failure to Issue a Tax Invoice – Fulfillment of Tax Invoice Requirements – Statutory Period.

Abstract

Plaintiff seeks annulment of ZATCA's decision imposing a fine of SAR (10,000) for Field Inspection Violation No. (...), resulting from the failure to issue a tax invoice. Thereafter, ZATCA responded as follows: An inspection of Plaintiff's premises revealed the Plaintiff's failure to issue tax invoices... -However, the Department established that Plaintiff submitted invoices which, upon review, were dated prior to the imposition of such fine by Defendant and were compliant with the tax invoices requirements, demonstrating Plaintiff's compliance with the obligation to issue tax invoices. For the foregoing reasons, the Department concludes to admit Plaintiff's claim in this regard- The Department ruled to annul Defendant's decision imposing a fine of SAR (10,000) and consider the decision final and enforceable.

Instruments:

- Articles (53) and (45.3) of [Implementing Regulations of The Law of Value Added Tax, issued by ZATCA "Previously GAZT" Board of Directors Decision No. \(3839\) of 14/12/1438 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Sunday, 24/07/2022, the Third Department for Adjudication of VAT Violations and Disputes in Riyadh, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/06/1425 AH as amended, and constituted pursuant to Royal Order No. (17218) dated 27/03/1442 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 27/10/2021.

Facts of this case are summarized that Plaintiff (...), holder of National ID No. (...), in his capacity as the owner of (...) Establishment for Contracting, CR No. (...), filed a statement of claim challenging Defendant's decision imposing a fine of SAR (10,000) for Field Inspection Violation No. (...), resulting from the failure to issue a tax invoice, and requesting annulment of the decision. By presenting this to the Defendant, ZATCA submitted a response memorandum stating the following: An on-site inspection was conducted at Plaintiff's premises on 10/06/2021, revealing Plaintiff's failure to issue tax invoices, in violation of Paragraph (1) of Article (53) of the Implementing Regulations of the VAT Law. Following verification, a fine of SAR (10,000) was



imposed, pursuant to Paragraph (3) of Article (45) of the VAT Law. Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response. Defendant's representative also submitted a supplementary memorandum of reply stating that the fine under Reference No. (48000058673) had been nullified, and requested the dismissal of the case. This concludes Defendant's response.

On Sunday, 24/07/2022, the session was convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to case, Plaintiff neither their representative appeared despite being legally notified, and Mr... (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated 18/10/1443 AH, issued by the Deputy Governor for Legal Affairs, and upon asking Defendant's representative for a response, he stated that he had submitted a supplementary memorandum to the Department, which was included in the case file, indicating the nullification of the fines in question, and asserted the case validity for adjudication according to Article (20) of the Tax Dispute and Violation Committee Procedures. Consequently, the Department decided to adjourn the session for deliberation.

Grounds

The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, side by side with relevant laws and regulations.

In Form, Since Plaintiff filed this Case for the purpose of challenging Defendant's imposition of a fine of SAR (10,000) for Field Inspection Violation No. (...), resulting from the failure to issue a tax invoice, based on Value Added Tax Law and its Implementing Regulations, and since this dispute falls within the jurisdiction of the Committee for Resolution of Tax Violations and Disputes as per Royal Decree No. (M/113) dated 2/11/1438 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits, having examined case papers and response of parties thereto after giving them sufficient time to express and submit necessary documents, the Department established that Defendant imposed a fine of SAR (10,000) for Field Inspection Violation No. (...), resulting from the failure to issue a tax invoice. However, the Department established that Plaintiff submitted invoices which, upon review, were dated prior to the imposition of such fine by Defendant and were compliant with the tax invoices requirements, demonstrating Plaintiff's compliance with the obligation to issue tax invoices. For the foregoing reasons, the Department concludes to admit Plaintiff's claim in this regard.

Regarding Defendant's request for a ruling on the dismissal of the case due to the nullification of the fine, it is responded that Plaintiff sought the annulment of the violation itself, not merely the fine. Furthermore, the legal ramifications arising from each differ. Consequently, the Department deems this request unsatisfactory.

In light of the above the Grounds and after deliberation, the Department unanimously decided the following:

Decision:



- Annul Defendant's (ZATCA) decision imposing a fine of SAR (10,000) for Field Inspection Violation No. (...) in question.

This decision was made in presence of parties, in accordance with the provisions of Article (56) of Law of Civil Procedures. The date on which the decision was entered into the e-system of the General Secretariat of Zakat, Tax, and Customs Committees shall be considered the date of decision delivery. The decision is deemed final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

Third Department to Adjudicate Value Added Tax
Violations and Disputes Riyadh

Decision No. (VTR-2022-1239)
Delivered in Case No. (V-
80725-2021)

Key words:

Value Added Tax - VAT Late Registration Fine - Exceeding the Mandatory Registration Threshold for Supplies - Statutory Period.

Abstract

Plaintiff seeks annulment of ZATCA's decision regarding the VAT late registration fine, amounting to SAR (10,000). Thereafter, ZATCA responded as follows: Upon reviewing Plaintiff's data with SAMA, it was evident that their supplies exceeded the mandatory registration threshold. Based on the foregoing, it is clear that the imposition of a VAT late registration fine on Plaintiff is valid. Whereas, the Department established that Defendant issued its decision to impose a VAT late registration fine, amounting to SAR (10,000). On other hand, Plaintiff failed to provide evidence substantiating their claim or contradicting Defendant's decision to impose the fine due to their failure to register within the statutory period after their supplies reached the mandatory registration threshold, as per Plaintiff's data with SAMA. In light of the above, the Department concludes to dismiss Plaintiff's claim in this regard. Therefore, the Department ruled to Dismiss Plaintiff Case. - Deem the decision final and enforceable.

Instruments:

- Article (2/50) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Article (41) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (3/1), (6), (56), (79/9), and (/) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of Directors of the General Authority of Zakat and Income -formerly- No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Wednesday, 27/07/2022, the Third Department for Adjudication of VAT Violations and Disputes in Riyadh, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Order No. (17218) dated 27/03/1442 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 04/11/2021.



Facts of this case are summarized that Plaintiff (...), holder of National ID No. (...), in his capacity as the owner of (...) Grocery Store for foodstuff, CR No. (...), filed a statement of claim challenging Defendant's decision regarding the imposition of a VAT late registration fine, amounting to SAR (10,000), and requesting annulment of the decision.

By presenting this to the Defendant, ZATCA submitted a response memorandum stating the following: Paragraph (2) of Article (50) of the Common VAT Agreement of GCC States stipulates "The Mandatory Registration Threshold shall be SAR 375,000", and Paragraph (9) of Article (79) of the Implementing Regulations of the VAT Law states "a Person whose value of annual Supplies exceeds the Mandatory Registration Threshold but does not exceed one million (1,000,000) SAR is exempted from the requirement to register in the Kingdom until 1 January 2019. However, any application for such registration must be submitted that on or before 20 December 2018." Moreover, Article (3) of the Implementing Regulations of the VAT Law states "every Resident Person in the Kingdom who is not registered by the Authority must at the end of each month calculate the value of his Supplies made in the Kingdom within the twelve months then ended, in accordance with the requirements set out in the Agreement. In cases where this value exceeds the Mandatory Registration Threshold detailed in the Agreement, the Person must apply to the Authority to register within thirty (30) days of the end of that month pursuant to Article eight of these Regulations." Additionally, Article (6) of the Implementing Regulations of VAT Tax Law provides: "Where the Person has failed to make an application to the Authority as prescribed in these Regulations, the Authority may register such Person without submitting any application and such registration shall take effect from the relevant date prescribed under Articles three and four of these Regulations". Additionally, Article (56) of the Implementing Regulations of the VAT Law grants ZATCA the right to access the tax information held by third parties directly and on an ongoing basis. Upon reviewing Plaintiff's data with SAMA, it was evident that their supplies exceeded the mandatory registration threshold. In light of the foregoing, the VAT late registration fine was lawfully imposed in accordance with Article (41) of the VAT Law, which states: "Any Person who has not applied for registration within the period specified in the Regulations shall be fined ten thousand (10,000) riyals." Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response.

On Wednesday, 27/07/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to case, Plaintiff appeared in person, and attended..... (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated 18/10/1443 AH, issued by the Deputy Governor for Legal Affairs. Plaintiff, at the beginning of the session, stated they object to the VAT late registration fine, acknowledging their oversight but citing a lack of awareness of the law. They further mentioned having settled all outstanding dues, with the exception of the fine, which they do not deem justified. Having requested comment of Defendant's representative, he stated that he upholds his representative's arguments in accordance with the memorandum attached to the case file. When asked if either party wished to add anything further, both parties stated that they would rely on what has already been submitted. Accordingly, the Department decided to adjourn session for deliberation before issuing decision.

Grounds

The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations



issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, side by side with relevant laws and regulations.

In Form, Since Plaintiff filed this Case for the purpose of challenging Defendant's imposition of a VAT late registration fine of SAR (10,000), based on Value Added Tax Law and its Implementing Regulations, and since this dispute falls within the jurisdiction of the Committee for Resolution of Tax Violations and Disputes as per Royal Decree No. (M/113) dated 2/11/1438 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits, having examined case papers and response of parties thereto after giving them sufficient time to express and submit necessary documents, the Department established that Defendant issued its decision imposing a VAT late registration fine of SAR (10,000). Conversely, Plaintiff failed to provide evidence substantiating their claim or contradicting Defendant's decision to impose the fine due to their failure to register within the statutory period after their supplies reached the mandatory registration threshold, as per Plaintiff's data with SAMA. Additionally, Paragraph (2) of Article (50) of the Common VAT Agreement of GCC States stipulates: "The Mandatory Registration Threshold shall be SAR 375,000 (or its equivalent in the GCC State currencies). The Ministerial Committee has the right to amend The Mandatory Registration Threshold after it has been in force for three years". Moreover, Paragraph (1) of Article (3) of the Implementing Regulations of the VAT Law states: "every Resident Person in the Kingdom who is not registered by the Authority must at the end of each month calculate the value of his Supplies made in the Kingdom within the twelve months then ended, in accordance with the requirements set out in the Agreement. In cases where this value exceeds the Mandatory Registration Threshold detailed in the Agreement, the Person must apply to the Authority to register within thirty (30) days of the end of that month pursuant to Article eight of these Regulations". In addition, Article (41) of the VAT Law stipulates "Any Person who has not applied for registration within the period specified in the Regulations shall be fined ten thousand (10,000) riyals". Based on the foregoing, the Department resolves to dismiss Plaintiff's claim in this regard.

In light of the above the Grounds and after deliberation, the Department unanimously decided the following:

Decision:

- Dismiss Plaintiff Case.

This decision was delivered in the presence of both parties. The date on which the decision was entered into the e-system of the General Secretariat of Zakat, Tax, and Customs Committees shall be considered the date of decision delivery. The decision is deemed final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

Third Department to Adjudicate Value Added Tax
Violations and Disputes Riyadh

Decision No. (VTR-2022-1241)
Delivered in Case No. (V-
82032-2021)

Key words:

Value Added Tax - Imposition of VAT Late Registration Fine - Chamber of Commerce Authenticated Certificate of Identification - Exceeding the Mandatory Registration Threshold - Statutory Period.

Abstract

Plaintiff seeks the annulment of ZATCA's decision regarding the VAT late registration fine, amounting to SAR (10,000). Thereafter, ZATCA responded by asserting its right to access any tax information held by third parties directly and on an ongoing basis, and stated that a review of Plaintiff's data with other entities (Ejar platform) revealed that their supplies exceeded the mandatory registration threshold. Based on the aforementioned, the imposition of the late registration fine on Plaintiff appeared to be valid. However, the Department established that Plaintiff submitted an identification certificate certified by the Chamber of Commerce. Given that Defendant registered Plaintiff based on information obtained from a third party (Ejar platform) and did not present the documents that prompted its decision to impose such fine, and considering that the fine is incurred upon confirmation of Plaintiff exceeding the mandatory registration threshold without registering within the statutory period; based on the foregoing, the Department concludes to admit Plaintiff's claim in this regard. Therefore, the Department ruled to Cancel Defendant decision and Department decision shall be deemed final and enforceable.

Instruments:

- Article (2/50) of [the Common VAT Agreement of GCC States, promulgated by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- Article (41) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Paragraph (1) of Article (3), Articles (6) and (56) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of Directors of the General Authority of Zakat and Income -formerly- No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Thursday, 21/07/2022, the Third Department for Adjudication of VAT Violations and Disputes in Riyadh, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/14/1425 AH as amended, and constituted pursuant to Royal Order No. (17218) dated 27/03/1442 AH to consider the aforementioned case. As the case has met the prescribed legal



requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 14/12/2021.

Facts of this case are summarized that Plaintiff/, holder of National ID No. (.....), filed a statement of claim challenging Defendant's decision regarding the imposition of a VAT late registration fine, amounting to SAR (10,000), and requesting annulment of the decision.

By presenting this to the Defendant, ZATCA submitted a response memorandum stating the following: Paragraph (2) of Article (50) of the Common VAT Agreement of GCC States stipulates "The Mandatory Registration Threshold shall be SAR 375,000". Moreover, Article (3) of the Implementing Regulations of the VAT Law states "every Resident Person in the Kingdom who is not registered by the Authority must at the end of each month calculate the value of his Supplies made in the Kingdom within the twelve months then ended, in accordance with the requirements set out in the Agreement. In cases where this value exceeds the Mandatory Registration Threshold detailed in the Agreement, the Person must apply to the Authority to register within thirty (30) days of the end of that month pursuant to Article eight of these Regulations." Additionally, Article (6) of the Implementing Regulations of VAT Tax Law provides: "Where the Person has failed to make an application to the Authority as prescribed in these Regulations, the Authority may register such Person without submitting any application and such registration shall take effect from the relevant date prescribed under Articles three and four of these Regulations". Additionally, Article (56) of the Implementing Regulations of the VAT Law grants ZATCA the right to access the tax information held by third parties directly and on an ongoing basis. Upon reviewing Plaintiff's data on Ejar platform, it was evident that their supplies exceeded the mandatory registration threshold. In light of the foregoing, the VAT late registration fine was lawfully imposed in accordance with Article (41) of the VAT Law, which states: "Any Person who has not applied for registration within the period specified in the Regulations shall be fined ten thousand (10,000) riyals." Defendant representative concluded his Reply with requesting dismissal of the case. This concludes Defendant's response.

Plaintiff also submitted a memorandum of reply stating that no VAT-taxable economic activity had occurred, as the contracts were signed in their capacity as the company's representative, and their VAT registration was based on lease agreements uploaded to Ejar platform.

On Thursday, 21/07/2022, the session was convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of the Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to case, Plaintiff neither their representative appeared despite being legally notified, and Mr.... (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated 18/10/1443 AH, issued by the Deputy Governor for Legal Affairs. Having asked Defendant's representative about his response, he responded by adhering to contents of the memorandum of reply and for the validity to adjudicate the case, in accordance with Article (20) of Tax Dispute and Violation Committee Procedures. Consequently, the Department decided to adjourn the session for deliberation.

Grounds

The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, side by side with relevant laws and regulations.



In Form, Since Plaintiff filed this Case for the purpose of challenging Defendant's imposition of a VAT late registration fine of SAR (10,000), based on Value Added Tax Law and its Implementing Regulations, and since this dispute falls within the jurisdiction of the Committee for Resolution of Tax Violations and Disputes as per Royal Decree No. (M/113) dated 2/11/1438 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits, having examined case papers and response of parties thereto after giving them sufficient time to express and submit necessary documents, the Department established that Defendant issued its decision imposing a VAT late registration fine of SAR (10,000). Plaintiff argues that they do not engage in any economic activity but rather conclude contracts in their capacity as the legal representative of ... Co. for Investment and Real Estate Development Company, CR No. (...). Plaintiff submitted a Chamber of Commerce authenticated Certificate of Identification addressed to ZATCA, stating that they are employed by the company as General Manager and represent the company in concluding and signing all contracts with third parties on its behalf. Furthermore, Defendant registered Plaintiff based on information obtained from a third party (Ejar platform) and did not present the documents that prompted its decision to impose such fine, and considering that the fine is incurred upon confirmation of Plaintiff exceeding the mandatory registration threshold without registering within the statutory period; based on Paragraph (2) of Article (50) of the Common VAT Agreement of GCC States, which stipulates: "The Mandatory Registration Threshold shall be SAR 375,000 (or its equivalent in the GCC State currencies). The Ministerial Committee has the right to amend The Mandatory Registration Threshold after it has been in force for three years". Moreover, Paragraph (1) of Article (3) of the Implementing Regulations of the VAT Law states: "every Resident Person in the Kingdom who is not registered by the Authority must at the end of each month calculate the value of his Supplies made in the Kingdom within the twelve months then ended, in accordance with the requirements set out in the Agreement. In cases where this value exceeds the Mandatory Registration Threshold detailed in the Agreement, the Person must apply to the Authority to register within thirty (30) days of the end of that month pursuant to Article eight of these Regulations". In addition, Article (41) of the VAT Law stipulates "Any Person who has not applied for registration within the period specified in the Regulations shall be fined ten thousand (10,000) riyals". Based on the foregoing, the Department resolves to admit Plaintiff's claim in this regard.

In light of the above the Grounds and after deliberation, the Department unanimously decided the following:

Decision:

- Annul Defendant's (ZATCA) decision regarding the VAT late registration fine. This decision was made in presence of parties, in accordance with the provisions of Article (56) of Law of Civil Procedures. The date on which the decision was entered into the e-system of the General Secretariat of Zakat, Tax, and Customs Committees shall be considered the date of decision delivery. The decision is deemed final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

Third Department to Adjudicate Value Added Tax Violations and Disputes Riyadh

Decision No. (VTR-2022-1242)
Delivered in Case No. (V-82301-2021)

Key words:

Value Added Tax – Field Inspection Fine – Omission of Establishment Address on Invoices – Gradation of Violations Related to Field Visits and E-Invoicing – Statutory Period.

Abstract

Plaintiff seeks annulment of ZATCA's decision regarding the field inspection fine for Violation No. (...), resulting from the absence of the establishment's address, amounting to SAR (10,000). Thereafter, ZATCA responded as follows: An on-site inspection was conducted at Plaintiff's premises, revealing that the invoices lacked the establishment's address. The Department determined, based on ZATCA's Board of Director's decision, that a graduated scale has been established for violations related to field visits and e-invoicing, whereby a warning shall suffice for taxpayer's first violation, with penalties escalating in severity upon repetition. Furthermore, Defendant's representative stated that this is Plaintiff's first violation. In light of the foregoing, the Department concludes to amend the fine for the violation in question to a warning. -Therefore, the Department ruled to - Amend Defendant's, ZATCA, decision regarding the penalty for Violation No. (...), subject of the case, from a fine to a warning and consider the decision final and enforceable.

Instruments:

- Article (48) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Article (53/8.b) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of Directors of the General Authority of Zakat and Income -formerly- No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Thursday, 21/07/2022, the Third Department for Adjudication of VAT Violations and Disputes in Riyadh, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/15/1425 AH as amended, and constituted pursuant to Royal Order No. (17218) dated 27/03/1442 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 14/12/2021.

Facts of this Case are summed up in that Plaintiff, CR No. (...), in his capacity as the owner of Est., CR No. (...), filed a statement of claim challenging Defendant's decision imposing a



field inspection fine for Violation No. (...), resulting from the absence of the establishment's address, amounting to SAR (10,000), and requesting the annulment of this decision.

By presenting this to the Defendant, ZATCA submitted a response memorandum stating the following: An on-site inspection was conducted at Plaintiff's premises on 19/09/2021, revealing that the invoices lacked the establishment's address, in violation of Paragraph (8.b) of Article (53) of the Implementing Regulations of the VAT Law. Consequently, a fine of SAR (10,000) was imposed, pursuant to Paragraph (3) of Article (45) of the VAT Law. Defendant's representative concluded his memorandum by requesting case inadmissibility in form. This concludes Defendant's response.

On Thursday, 21/07/2022 AD, the session was convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to case, Plaintiff appeared in their own capacity attended..... (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated .../ 10/ 1443AH, issued by Deputy Governor for Legal Affairs. Having asked Plaintiff regarding their case, they responded by adhering to the contents of the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees. When questioned regarding his response, Defendant's representative affirmed reliance on the arguments presented in the memorandum of reply. Plaintiff further stated that this was his first violation, which Defendant's representative confirmed upon request for comment. When asked if either party wished to add anything further, both parties stated that they would rely on what has already been submitted. Accordingly, the Department decided to adjourn session for deliberation before issuing decision.

Grounds

The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, side by side with relevant laws and regulations.

In Form, Since Plaintiff filed this Case for the purpose of challenging Defendant's imposition of a filed inspection fine for Field Inspection Violation No. (...), resulting from the absence of the establishment's address, based on Value Added Tax Law and its Implementing Regulations, and since this dispute falls within the jurisdiction of the Committee for Resolution of Tax Violations and Disputes as per Royal Decree No. (M/113) dated 2/11/1438 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits, having examined case papers and response of parties thereto after giving them sufficient time to express and submit necessary documents, the Department established that the dispute arises from Defendant's imposition of a field inspection fine against Plaintiff in the amount of SAR (10,000) for Violation No. (...), resulting from the absence of the establishment's address. Upon reviewing the facts of the case, and considering the established issuance of ZATCA's Board of Director's decision, effective as of 30/01/2022, encompassing the reclassification of violations and their corresponding penalties, whereby a graduated scale has been established for violations related to field visits and e-invoicing, whereby a warning shall suffice for taxpayer's first violation, with penalties escalating in severity upon repetition. Furthermore, the BoD is authorized by law



to issue such decision, which seeks to fulfill one of the objectives of the law, particularly Article (48), which mandates the necessity of proportionality between the violation and the penalty, as well as the stipulated requirement for a gradual approach in imposing penalties and issuing a warning prior to any punitive action, and since Defendant's representative confirmed that this was Plaintiff's first violation at the session held on 21/07/2022, the Department, based on the foregoing, concludes that the penalty for the violation in question shall be amended to a warning. **In light of the above the Grounds and after deliberation, the Department unanimously decided the following:**

Decision:

- Amend Defendant's, ZATCA, decision regarding the penalty for Violation No. (...), subject of the case, from a fine to a warning.

This decision was delivered in the presence of both parties. The date on which the decision was entered into the e-system of the General Secretariat of Zakat, Tax, and Customs Committees shall be considered the date of decision delivery. The decision is deemed final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

Third Department to Adjudicate Value Added Tax Violations and Disputes Riyadh

Decision No. (VTR-2022-1243)
Delivered in Case No. (V-82774-2021)

Key words:

Value Added Tax – Inclusion of Tax Amounts in Invoices Lower than the Statutory Rate – Field Inspection Fine – Gradation of Violations Related to Field Visits and E-Invoicing – Statutory Period.

Abstract

Plaintiff seeks annulment of ZATCA's decision regarding the field inspection fine for Violation No. (...), resulting from the failure to collect VAT lower than the statutory rate, amounting to SAR (10,000). Thereafter, ZATCA responded as follows: An on-site inspection was conducted at Plaintiff's premises, revealing that the invoices included VAT amounts collected at a rate lower than the statutory rate. The Department determined, based on the statement of Defendant's representative that this is the company's first violation, and in accordance with ZATCA's Board of Director's decision, that a graduated scale has been established for violations related to field visits and e-invoicing, whereby a warning shall suffice for taxpayer's first violation, with penalties escalating in severity upon repetition. In light of the foregoing, the Department concludes to amend the fine for the violation in question to a warning. -Therefore, the Department ruled to Amend Defendant's decision from a fine to a warning and consider the decision final and enforceable.

Instruments:

- Articles (2) and (48) of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- Articles (53/8) and (64) of [the Implementing Regulations of the Value Added Tax Law issued by the decision of the Board of Directors of the General Authority of Zakat and Income - formerly- No. \(3839\) dated 14/12/1438 AH.](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Wednesday, 20/07/2022, the Third Department for Adjudication of VAT Violations and Disputes in Riyadh, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Order No. (17218) dated 27/03/1442 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 18/11/2021.

Facts of this Case are summed up in that Plaintiff/ Co., CR No. (...), represented by ..., National ID No. (...), in their capacity as an Appointed Board Member, filed a statement of claim



challenging Defendant's decision imposing a field inspection fine for Violation No. (...), resulting from the failure to collect VAT lower than the statutory rate, amounting to SAR (10,000), and requesting the annulment of this decision.

By presenting this to the Defendant, ZATCA submitted a response memorandum stating the following: An on-site inspection was conducted at Plaintiff's premises, revealing that the issued invoices included VAT collected lower than the statutory rate, a violation of Article (2) of the VAT Law and Paragraph (8) of Article (53) of the Implementing Regulations of the VAT Law. Consequently, a fine of SAR (10,000) was imposed, pursuant to Paragraph (3) of Article (45) of the VAT Law. Defendant's representative concluded his memorandum by requesting case inadmissibility in form, and dismissal on merits. This concludes Defendant's response.

Plaintiff also submitted a memorandum of reply, stating that Defendant failed to comply with Article (64) of the Implementing Regulations of the VAT Law, as no notification of inspection was provided, and the penalty was imposed without prior inspection. Furthermore, ZATCA did not apply the Implementing Regulations of the VAT Law, as no inspection notice was given at least 20 days prior to the inspection.

On Wednesday, 20/07/2022, the session was held via video conference in accordance with remote video litigation procedures based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to case, ..., holder of National ID No. (...) appeared in his capacity as a representative of (...) Company, CR No. (...) and (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated 18/10/1443 AH issued by the Deputy Governor for Legal Affairs. Having asked Plaintiff regarding their case, they responded by affirming the contents of the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees. When questioned regarding his response, Defendant's representative affirmed reliance on the arguments presented in the memorandum of reply. Upon requesting Plaintiff's representative to comment on Defendant's formal defense, he reviewed a number of emails sent to the Secretariat regarding technical issues he had encountered while attempting to file Plaintiff's claim, and submitted copies thereof to the case file—the first of which was dated July 19, 2021. Defendant's representative, in turn, presented the inspection report and the invoice subject of the violation. Upon reviewing the same by Plaintiff's representative, he acknowledged that the invoice appeared to pertain to Plaintiff but requested time to verify the accuracy of the figures contained therein and further added that this was the Plaintiff's first violation. Having presented the same to Defendant's representative, he confirmed affirmatively. When asked if either party wished to add anything further, both parties stated that they would rely on what has already been submitted. Accordingly, the Department decided to adjourn the session for deliberation and issue a decision.

Grounds

The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, side by side with relevant laws and regulations.

In Form, Since Plaintiff filed this Case for the purpose of challenging Defendant's imposition of a filed inspection fine for Violation No. (...), based on Value Added Tax Law and its Implementing Regulations, and since this dispute falls within the jurisdiction of the Committee for Resolution of



Tax Violations and Disputes as per Royal Decree No. (M/113) dated 2/11/1438 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits, having examined case papers and response of parties thereto after giving them sufficient time to express and submit necessary documents, the Department established that the dispute arises from Defendant's imposition of a field inspection fine against Plaintiff in the amount of SAR (10,000) for Violation No. (48000044312), resulting from the failure to collect VAT lower than the statutory rate. Upon reviewing the facts of the case, and considering the established issuance of ZATCA's Board of Director's decision, effective as of 30/01/2022, encompassing the reclassification of violations and their corresponding penalties, whereby a graduated scale has been established for violations related to field visits and e-invoicing, whereby a warning shall suffice for taxpayer's first violation, with penalties escalating in severity upon repetition. Furthermore, the BoD is authorized by law to issue such decision, which seeks to fulfill one of the objectives of the law, particularly Article (48), which mandates the necessity of proportionality between the violation and the penalty, as well as the stipulated requirement for a gradual approach in imposing penalties and issuing a warning prior to any punitive action, and since Defendant's representative confirmed that this was the company's first violation, the Department concludes that the penalty for the violation in question shall be amended to a warning.

Based on the above, and after deliberation, the Department unanimously decided as follows:

Decision:

First: To Accept case in form.

Second: - Amend Defendant's, ZATCA, decision regarding the penalty for Violation No. (...), subject of the case, from a fine to a warning.

This decision was delivered in the presence of both parties. The date on which the decision was entered into the e-system of the General Secretariat of Zakat, Tax, and Customs Committees shall be considered the date of decision delivery. The decision is deemed final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



Value-Added Tax

Determination Committee

Third Department to Adjudicate Value Added Tax
Violations and Disputes Riyadh

Decision No. (VTR-2022-1244)
Delivered in Case No. (V-
82804-2021)

Key words:

Value Added Tax – Fine for Submission of Incorrect Tax Return – Finality of Decision Due to Lapse of Statutory Objection Period – Examination of Tax Return – Fine Imposition is Established Upon Submission of an Erroneous Return.

Abstract

Plaintiff seeks annulment of ZATCA's decision regarding the fine for submission of incorrect tax return for the VAT period of Q1 2021. Thereafter, ZATCA responded as follows: The decision has become final due to the lapse of the statutory objection period. ZATCA examined Plaintiff's tax return and found it to be incorrect, resulting in an amendment of the return and the imposition of a fine for submission of incorrect tax return. The Department established that the fine imposition is established upon submission of an erroneous return or a document that would result in the calculation of VAT lower than the tax due. However, the Department found that no VAT was payable by Plaintiff, and the submitted return only included purchases. Consequently, the basis for imposing the fine on Plaintiff is not met. Therefore, the Department ruled to nullify the fine for submission of incorrect tax return in question and consider the decision final and enforceable.

Instruments:

- Article (42/1) of [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)

Facts:

Praise be to Allah and blessings and peace be upon his Prophet, all his Family and Companions.

On Wednesday, 20/07/2022, the Third Department for Adjudication of VAT Violations and Disputes in Riyadh, established under the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and constituted pursuant to Royal Order No. (17218) dated 27/03/1442 AH to consider the aforementioned case. As the case has met the prescribed legal requirements, it was filed with the General Secretariat of Zakat, Tax and Customs Committees on 18/11/2021.

Facts of this case are summed up in that Plaintiff/ ... Company for Real Estate, CR No. (...), represented by ..., holder of National ID No. (...), appeared under PoA No. (...), filed a statement of claim challenging Defendant's decision regarding the fine for submission of incorrect tax return for the VAT period of Q1 2021, and requesting annulment of the decision.

By presenting this to the Defendant, ZATCA submitted a response memorandum stating the following: In Form, the decision has become final due to the lapse of the statutory objection period, in accordance with Article (2) of the Rules of Procedure of the Committees. ZATCA's



decision to reject the objection was issued on 19/10/2021, while the case was filed on 18/11/2021. On Merits, ZATCA examined Plaintiff's tax return and found it to be incorrect, resulting in an amendment of the return and the imposition of a fine for submission of incorrect tax return, pursuant to Paragraph (1) of Article (42) of the VAT Law. Defendant's representative concluded his memorandum by requesting case inadmissibility in form, and dismissal on merits. This concludes Defendant's response.

On Wednesday, 20/07/2022, the session was held via video conference in accordance with the remote virtual litigation procedures based on Article (15.2) of

Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. When calling parties to the case, Plaintiff's representative, ... under POA No. (...) holder of National ID No (...), and (Saudi National, under National ID No. (...)) in his capacity as ZATCA's Representative by Authorization Letter No. (...), dated 18/10/1443 AH, issued by the Deputy Governor for Legal Affairs. Having asked Plaintiff regarding their case, they responded by adhering to the contents of the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees. When questioned regarding his response, Defendant's representative affirmed reliance on the arguments presented in the memorandum of reply. Accordingly, the Department decided to adjourn the session for deliberation and issue a decision.

Grounds

The Department considered the case after reviewing and verifying case documents, reviewing the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, perusing Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, and based on Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, and in accordance with Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, side by side with relevant laws and regulations.

In Form, Since Plaintiff filed this Case for the purpose of challenging Defendant's imposition of a fine for submission of incorrect tax return for the VAT period of Q1 2021, based on Value Added Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes as per Royal Decree No. (M/113) dated 2/11/1438 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits, having examined case papers and response of parties thereto after giving them sufficient time to express and submit necessary documents, the Department established that Defendant issued its decision imposing a fine for submission of incorrect tax return for the VAT period of Q1 2021, due to the incorrectness of the return submitted by Plaintiff, which resulted in the adjustment of the return. Consequently, the fine was imposed based on Paragraph (1) of Article (42) of the Value Added Tax Law. Plaintiff disputes ZATCA's decision, relying on the principle that fine imposition is established upon submission of an erroneous return or a document that would result in the calculation of VAT lower than the tax due, based on Paragraph (1) of Article (42) of the VAT Law, which provides: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due". However, the Department found that no VAT was payable by Plaintiff, and the submitted return only included purchases. Consequently, the basis for imposing the fine on Plaintiff is not met. Therefore, the Department satisfies to admit Plaintiff's claim in this regard.



In light of the above the Grounds and after deliberation, the Department unanimously decided the following:

Decision:

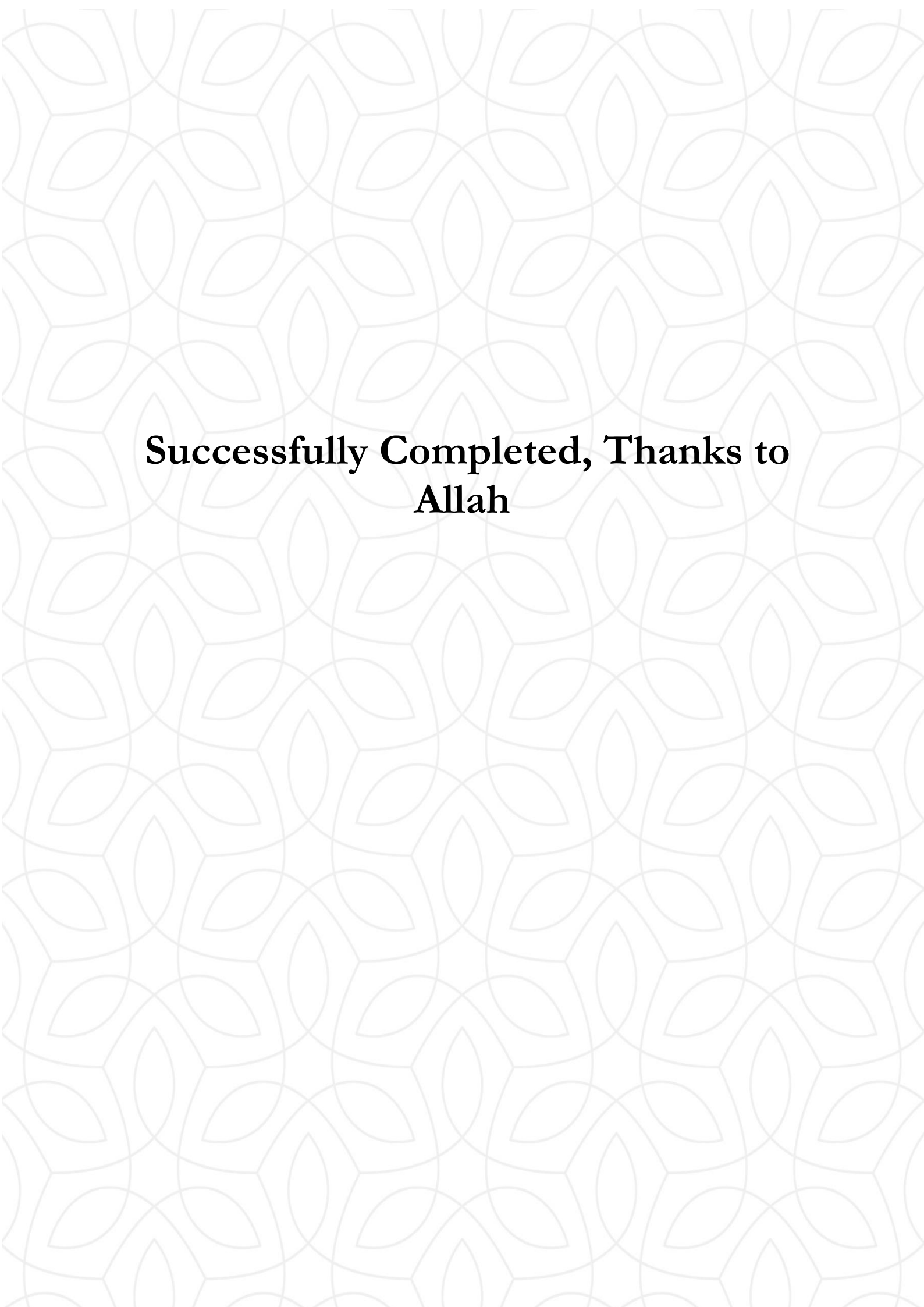
First: To Accept case in form.

Second: Annul the fine for submission of incorrect tax return for the tax period in question.

This decision was made in presence of parties, in accordance with the provisions of Article (56) of Law of Civil Procedures. The date on which the decision was entered into the e-system of the General Secretariat of Zakat, Tax, and Customs Committees shall be considered the date of decision delivery. The decision is deemed final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

(Judgment has become final by expiration of objection period under article 33.2 of Rules of Tax Dispute and Violation Committee Procedures).



**Successfully Completed, Thanks to
Allah**