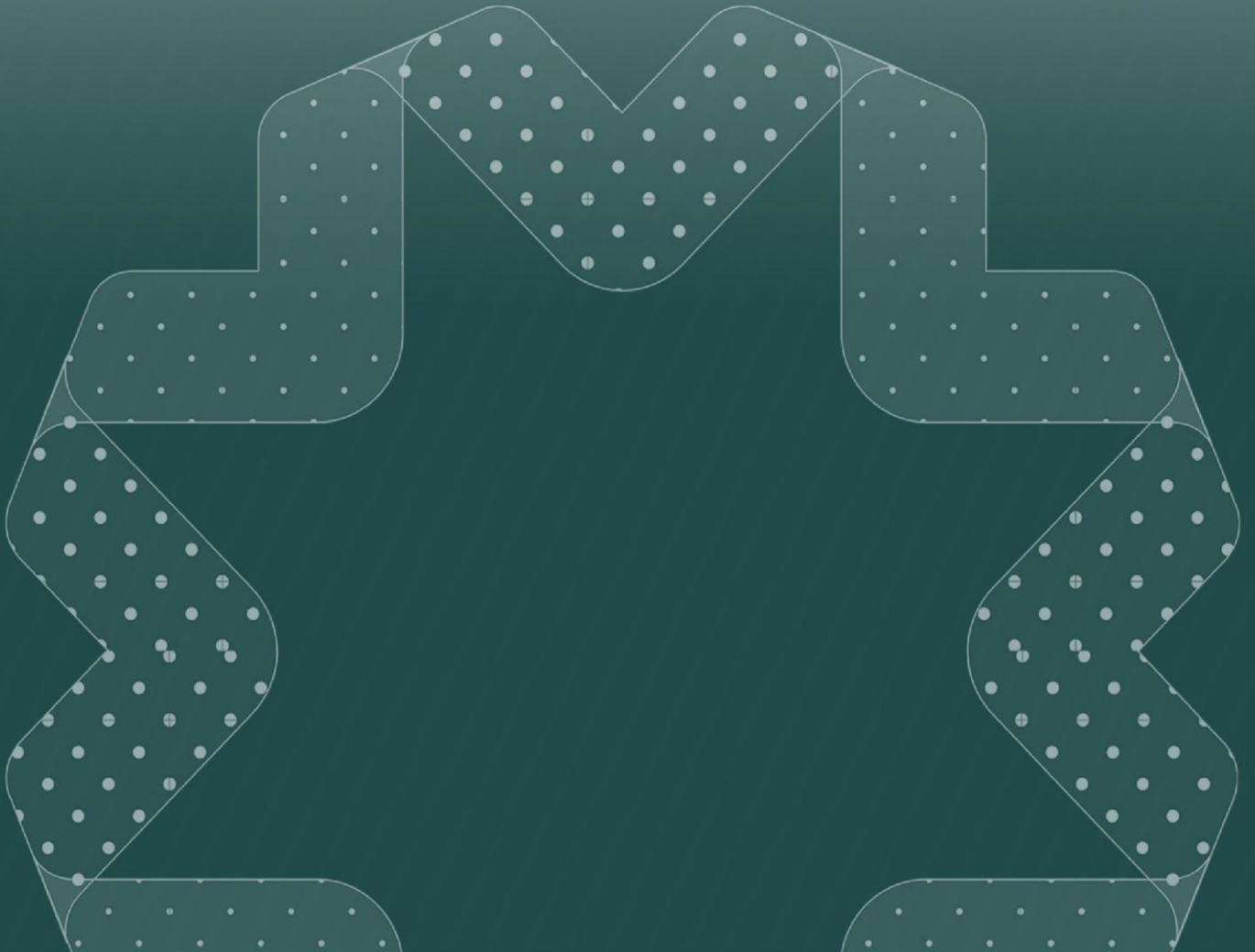




الأمانة العامة للجان الزكوية والضريبية والجمركية
General Secretariat of Zakat, Tax and Customs Committees

Tax Committees Decisions for 2022 AD (Zakat) Volume(2)





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Tax Committees Decisions for 2022
AD
(Zakat)
Volume(2)

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(Zakat)
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Key words:

Zakat - Accounts - Investments - Miscellaneous Creditors - Related Parties (Partners) - Dividends

Abstract

The Zakat Payer instituted this case requesting to cancel ZATCA's Decision regarding the zakat assessment for the year 2015. In this dispute, the Plaintiff contested zakat assessment made by the Defendant ZATCA for the year 2015 AD, specifically regarding those items: (Investments) where the Plaintiff claimed that the amount of investments was not deducted from the zakat base, (Miscellaneous Creditors) where the Plaintiff objects to adding the (Miscellaneous Creditors) item to the zakat base, (Related Parties (Partners)) where the Plaintiff objects to adding this item to the zakat base, and (Dividends) where the Plaintiff objects to adding this item to the zakat base. As for the (Investments) items, the Department found that the dispute regarding this point has been settled with the Defendant accepting the Plaintiff's objection and deducting this item from zakat base. As for (Miscellaneous Creditors) item, the Department having referred to the detailed movement submitted by the Plaintiff found that the opening balance did not match the balance included in the financial statements. As for the (Related Parties (Partners)) item, the Zakat Payer did not submit the detailed movement of the partner's current account to prove that the opening balance has been settled throughout the year. As for the (Dividends) item, it was found that the Zakat Payer didn't provide proof for distributing the dividends in issue. Accordingly, the Department rules that the dispute regarding Investments item has been settled and to dismiss the other claims.

Instruments:

- Zakat Law promulgated by Royal Decree No. (17/28/577) dated 14/03/1376 AH
 - Article 20.1 of Tax Dispute and Violation Committee Procedures issued under Royal Decree No. (26040) dated 21/04/1441
- Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH
 - Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. (1535) of 11/06/1425 AH
- Paragraph (2/First), Paragraph (A, C/4), Paragraph (C/4/Second), Paragraph (5/First), Paragraphs (8, 11/First) of Article (4) and Paragraph (3) of Article (20) of the Implementing Regulations of the Zakat Law issued by the Minister of Finance Decision No. (2082) of 01/06/1438 AH

Facts:

The facts of this case are summed up as follows: Mr....., National ID No., in his capacity as the Legal Representative of the PlaintiffCompany, C.R. No.



as per that company's articles of association filed an objection to the zakat assessment issued by ZATCA for the year 2015.

Having presented the case to the Defendant, it replied as follows:

As for item First Investments The Defendant made zakat assessed for the Zakat Payer as per the data available to it, namely: A. Land purchase investments in the amount of SAR 28,726,948: These investments were not deducted as the Defendant found that they are trade assets. Accordingly, the Plaintiff's objection was dismissed. B. Land development investments in the amount of SAR 12,207,542: The Plaintiff's objection regarding this item was accepted it has been deducted from the zakat base. C. Real estate investments in housing units in the amount of SAR 17,500,358: The Defendant found that these investments are funds (currencies or deposits) intended for spending on trade assets for more than a year, therefore the Plaintiff's objection was rejected. D. Investments in real estate units under construction in the amount of SAR 1,515,825: The Plaintiff's objection regarding this item was accepted it has been deducted from the zakat base. Item Second: Credit Balance in the amount of SAR 17,318,502: The assessment was made based on the data available to ZATCA acting pursuant to Article (4) of the Implementing Regulations for Zakat Collection issued by Minister of Finance Decision No. (2082) of 01/06/1438 AH. Item Third: Partners' Current Balance (Investment Contributions) in the amount of SAR 48,892,591: The current balance was recognized at the end of the period after distributing dividends and financing the acquisition assets based on Article (4) of the Implementing Regulations for Zakat Collection. Fourth Item Dividends in the amount of SAR 3,549,970: The Plaintiff's objection was dismissed due to the failure to submit documents supporting the dividends based on Articles (4) and (20) of the Implementing Regulations for Zakat Collection. Accordingly, ZATCA requests that the case be dismissed while reserving its right to submit further responses and clarifications until the closing of the pleadings.

On,.././....., the Department held its session remotely to hear the case. At that session, no one appeared for the Plaintiff despite being duly notified of the date of session. For the Defendant appeared Ms....., National ID No. in her capacity as the Defendant's Representative pursuant to Authorization no.....dated .././.....issued by ZATCA's Deputy Governor for Legal Affairs. Having asked the Defendant's Representative about the Plaintiff's claims, she maintained the statements submitted by the Defendant in its plea requesting that no further documents that weren't submitted at the inspection and objection stage be accepted. Having asked the Defendant's Representative if she had any other statements, she replied "no". Accordingly, the Department decided to close the pleading and deliberation.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form: the Plaintiff filed this case moving to cancel ZATCA's Decision regarding the zakat assessment for the year 2015 AD. Since this dispute is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Excise Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a person with capacity, and within the period prescribed by law, it is therefore accepted in form.



On Merits: Having examined the papers and documents contained in the case file, as well as the requests, defenses and pleas made by its parties, the Department found that the Plaintiff objects to the zakat assessment made by the Defendant for the year 2015 AD, specifically in respect of four items, namely:

First: Investments

The Plaintiff challenges the Defendant's Decision to not deduct the Investments amount from the zakat base for the year 2015, arguing that these investments are lands purchased as acquisition assets and lands developed for generating profits in addition to real estate units developed to use the proceeds generated from them for spending on the real estate units for a period of one year, in addition to investments in real estate units under construction. The Defendant argued that it did not deduct Investments in purchased land, as it found that they were trade assets, nor did it deduct investments in real estate units, as it found that they were funds (currencies or deposits) intended for spending on trade assets for a period of more than one year. AS for the Plaintiff's request for deducting land development investments and real estate unit investments from the zakat base, it was accepted by the Defendant according to Paragraph (A, C/4) of Article (4) of the Implementing Regulations for Zakat Collection issued by Ministerial Decision No. (2082) of 01/06/1438 AH, which states: "A. Investments in an entity within the Kingdom in partnership with other parties if those investments are subject to zakat according to these Regulations; otherwise, these investments shall not be deducted from the tax base. C. In all cases, if the investments, whether local or foreign, are in bonds, sukuk, currencies, deposits or futures transactions, they shall not be deducted from the base, whether they are short-term or long-term". Also, Article 20.3 of the same Regulations provides "The zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the zakat payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it". Based on the above, with regard to land development investments and investments in real estate units under construction, the Department has established that the dispute between the two parties has been resolved with the Defendant accepting the Plaintiff's objection and deducting that item from the zakat base. As for deducting purchased land investments and real estate unit investments, the Department, having referred to the Defendant's reply, found that the Defendant didn't accept the deduction of purchased land investments because they are trade assets, and so did it as regard to the investments in real estate units because they were cash and deposits. Moreover, the Plaintiff only submitted the financial statements for the year 2015 AD, which did not provide full breakdown of that item. It didn't also submit the movement of the investment account. Since two basic conditions must be met to account for investments as acquisition assets in order to be deducted from the zakat base, namely the documented intention of the authorized person that indicates the intention of the investment, and the absence of sales transactions conducted on those assets during the year. In addition, the deposits held with banks are a debt payable by the bank to the depositor and are not funds subject to zakat when charging zakat on the bank that holds those deposits. Paragraph (c/4/second) of Article (4) of the Implementing Regulations for Zakat Collection also stipulated that bank deposits may not be deducted from the zakat base. Accordingly, the Department decides to dismiss the Plaintiff's objection.

Second: Miscellaneous Creditors

The Plaintiff objects to the Defendant's Decision to add Miscellaneous Creditors item in the amount of SAR 17,318,502 to the zakat base for the year 2015 AD, requesting that that item be modified on Grounds that the amount that has a year passed over it is SAR 865,000. The Defendant argued that its action was compliant with the Implementing Regulations



for Zakat Collection, and since paragraph (5/first) of Article (4) of the Implementing Regulations for Zakat Collection issued by the Minister of Finance's Decision No. (2082) dated 01/06/1438 AH provides that: "The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 5- Government and commercial loans and similar other sources of financing such as creditors, payment papers, and overdraft accounts owed by the Zakat payer which: A. remained in cash and had a year passed on it. B. were used to finance acquisition assets. C. were used in trade assets and had a year passed on it". Moreover, Article 20.3 stipulates that: "The zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the zakat payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it". Accordingly, the Department, having referred to the detailed movement submitted by the Plaintiff, found that the opening balance of the reporting period does not match the balance included in the financial statements, and accordingly, the account movement submitted is invalid. Given that the trade payables are considered one of the components of the Zakat base provided that a year has passed on them or they are used to finance assets deducted from the Zakat base, therefore, the Department concludes to dismiss the Plaintiff's objection.

Third: Related Parties (Partners):

The Plaintiff objects to the Defendant's Decision to add related parties item in the amount of SAR 48,892,591 to the zakat base for the year 2015 AD arguing that this amount is payments made to the partners for the investments referred to in Clause (First). The Defendant responded that its Decision was compliant with the Implementing Regulations for Zakat Collection; and since Paragraph (2/First) of Article (4) of the Implementing Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) of 01/06/1438 AH stipulates that: "The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 2. The current credit account of the owner or partner at the beginning or end of the year, whichever is less, as well as the increase in the current account if its source is from equity, or if it was finance for an acquisition asset.". Moreover, Article 20.3 of the same Regulations stipulates that: "The zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the zakat payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it".

Accordingly, the Department, having reviewed the case file, found that the Plaintiff did not provide the detailed movement of the partners' current account, which indicates that the opening balance was paid during the year, or proof that a year has not passed on the amounts added by the Defendant. Given that the partners' current account is a component of the Zakat base and is added to the Zakat base if a year has passed on it or in the event that it is sourced from equity or used to finance assets deducted from the base, therefore, the Department decides to dismiss the Plaintiff's objection in this respect.

Fourth: Dividends:

The Plaintiff objects to the Defendant's Decision to add the Dividends item in the amount of SAR 3,549,970 to the zakat base for the year 2015 AD, indicating that the movement of retained earnings in the financial statements for the year in dispute is as follows: The opening balance of the period is SAR 3,549,970, the dividends are SAR 6,867,902 and the closing balance is SAR 6,867,902. Thus a year has not passed on the balance of retained earnings. The Plaintiff added that the dividends amount was no longer under its possession and it therefore can not be subject to zakat. The Defendant however argued that its Decision was in accordance with the Implementing Regulations for Zakat Collection, and where paragraphs (8, 11/first) of Article (4) of the Implementing



Regulations for Zakat Collection issued by the Minister of Finance's Decision No. (2082) of 01/06/1438 AH provides that: "The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 8. The balance of profits carried forward from previous years at the end of the year. 11. Dividends under distribution excluding the dividends announced for distribution but their owners have not received them, provided that they are deposited in a special account that the company is not allowed to dispose of". Additionally, Article 20.3 of the same Regulations stipulates that: "The zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the zakat payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it". Accordingly, the Department, having reviewed the case file, found that the Plaintiff did not provide proof for distribution of the dividends, or the partners' Decision to distribute the dividends and bank statements to prove that those amounts were no longer in the Plaintiff's possession before the lapse of one lunar year. Moreover, the Department, having referred to the statement of changes in the financial statements for the year 2015, found no dividends distributed, and having referred to the statement of cash flow, it found that it does not include external dividends. Accordingly, the Department concludes to dismiss the Defendant's objection in this respect.

As for the absence of the Plaintiff and his Representative from the hearing despite being duly notified, and based on Article 20.1 of the Tax Dispute and Violation Committee Procedures, which stipulates that: "If a Plaintiff fails to attend any hearing after being notified of the date set for consideration of the suit without an excuse acceptable to the circuit, the circuit must decide the suit if it is ripe for judgment". Furthermore, Article 56 of the Law of Civil Procedures provides that: "In the cases provided for in Article 55 of this Law, if the Defendant attends the hearing from which the Plaintiff is absent, he may petition the court not to dismiss the case and to render a Decision on its merits; in which case, the court shall rule on such case and the judgment shall be considered in absentia with respect to the Plaintiff"; and since the Plaintiff's Attorney did not submit an acceptable excuse for absence from the session; and since the Department determined that the case is ripe for adjudication, it therefore delivers its Decision in this case as in presence of the Plaintiff.

For those Grounds and after deliberation, the Department unanimously decided to:

Decision

First: Declare that the dispute between the PlaintiffCompany , TIN No. with the Defendant ZATCA in connection with the land development investments and investments in developing real estate units under construction has been settled with the Defendant accepting the Plaintiff's requests in this respect.

Second: Dismiss other objections of the PlaintiffCompany, TIN No. To the Defendant's Decisions in relation to the zakat assessment in issue.

This Decision was delivered in presence of the parties. The Department set the day of, .././..... AH for receiving a copy of the Decision. Either party to the case may appeal against the Decision within thirty 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 his family and companions.

Appellate Committee:

The Appellate Committee decided to uphold the appealed Decision.



Committee for Determination of Tax Violations and Disputes

Third Circuit for Settling Income Tax Violations and Disputes In Riyadh

Decision No. IFR-2022-449
Case No. Z-22719-2020

Key words:

Zakat - Accounts - Fiscal Year - Import Differences - Accrued Expenses - Depreciation Differences - Bad Debts

Abstract

The Zakat Payer filed this case requesting to cancel ZATCA's Decision regarding the zakat assessment for the years 2008 to 2014. The Plaintiff objects to the Zakat assessment made by ZATCA for the period from 2008-2014. This objection concerned the Zakat Assessments item where the Plaintiff claims that the assessment had been made after expiry of the period specified by law; the Import Differences item, where the Plaintiff objects to adding internal purchases to the external purchases; the Accrued Expenses item, where the Plaintiff objects to adding the opening and closing balances to the accrued expenses covered by the zakat base. As for the Zakat Assessments item, the Department found that the Defendant notified the Plaintiff of the zakat assessment only after 5 years from the expiry of the closing date for submitting the zakat declaration. While for the Import Differences item, the Zakat Payer did not submit the documents supporting its claims. As for the Due Expenses item, the Zakat Payer did not submit the detailed movement of due expenses account. With regard to the Depreciation Differences item, the Defendant did not submit the statement of fixed assets and their depreciation, while for the Bad Debts item, the Department concluded in item First to cancel the Defendant's Decision for the expiry of the period prescribed for making the zakat assessment. Accordingly, the Department ruled to dismiss the Zakat Payer's objection as to Import Differences and Due Expenses items and to cancel the Defendant's Decisions regarding other items. Rules of Work of Committees for Settlement of Tax Violations and Disputes, issued by Royal Order No. (26040) dated 21/04/1441 AH

Instruments:

- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- Articles 4 (First), 7.13, 20.3, 21.8 and 21.10 of [the Implementing Regulations of the Zakat Law issued by Minister of Finance's Decision No. \(2082\) of 01/06/1438 AH](#)

Facts:

The facts of this case are summed up as follows: Mr....., National ID No., in his capacity as the Attorney for the Plaintiff Company, C.R. No.. ... pursuant to POA No.



dated .././... issued by the Notary Public in North Riyadh submitted an objection to the zakat assessment issued by ZATCA for the years 2008 to 2014.

Having presented the statement of claims to the Defendant, it argued that the case is inadmissible in form for being filed after the period prescribed by law as per Articles (2) and (3) of the Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. As on merits of case, the Defendant responded with regard to item First, namely Expiration of the period of zakat assessment for the years 2008 to 2012 that the Defendant has modified the Plaintiff's declarations for the years 2008 to 2012 according to the bases of assessment being contested and in line with Implementing Regulations for Zakat Collection and the relevant regulatory instructions, claiming that the declarations submitted by the Plaintiff were invalid based on Article (21) of the Implementing Regulations for Zakat Collection issued by the Minister of Finance's Decision No. (2082) dated 01/06/1438 AH. Item Second: Imports for the years 2008 to 2014: The Plaintiff's objection was dismissed for having over-quoted the external purchases in the customs declaration compared to the value included the customs declaration for all years except for the years 2011 and 2012, where no external purchases were declared based on ZATCA's Circular No. (2030/9) dated 15/04/1430 AH, and Article 20 of the Implementing Regulations for Zakat Collection. Item Third: Accrued Expenses for the years 2008 to 2014: The Plaintiff's objection was dismissed due to the Plaintiff's failure to submit the movement of accrued expenses account from the accounting system based on Articles (20) and (4) of Implementing Regulations for Zakat Collection, Fatwa No. (22665) of 15/04/1424 AH, and Fatwa No. (3077/2) dated 08/11/1426 AH. Fourth Item Failure to account for depreciation based on the declining balance method for the years from 2011 to 2014: The Defendant indicates that the adjusted value of fixed assets deducted from the base and the depreciation differences were reached by re-preparing the fixed assets statements and calculating their depreciation, based on Article (7) of Implementing Regulations for Zakat Collection. Fifth: Bad debts in the amount of SAR 43,858 for the year 2008: The Defendant did not approve the writing off of bad debts due to failure to meet the controls and conditions for settlement of those debts based on Article (5) of Implementing Regulations for Zakat Collection. Accordingly, the Defendant requests that the case be dismissed while reserving its right to submit further responses and clarifications before the competent department.

On Thursday 09/07/1443 AH, the Department held its session remotely to consider the case. For the Plaintiff attended Mr....., National ID No., in his capacity as the Plaintiff's Attorney under POA No. dated .././... issued by the Notary Public in North Riyadh. For the Defendant attended Ms., National ID No., in her capacity as the Defendant's Representative under authorization No.... Dated .././..... issued by ZATCA's Deputy Governor for Legal Affairs. Having asked the Plaintiff's Attorney about its client's claims, he maintained the statements included in the statement of claims submitted to the General Secretariat of Tax Committees. Having referred to the Defendant's Representative for its reply, she invoked the statements provided by the Defendant in its plea requesting that the Department does not accept further documents that were not submitted to the Defendant during the inspection and objection stage. Having asked both parties if they had other statements, they answered "no". Therefore, the Department decided to close pleadings for deliberation.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations



issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: The Plaintiff filed this case moving to cancel ZATCA's Decision regarding the zakat assessment for the years from 2008 to 2014. Since this dispute is a zakat dispute, it then falls within the jurisdiction of the Committee for Resolution of Excise Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a person with capacity, and within the period prescribed by law, it is therefore accepted in form.

On merits: having examined the case papers and documents included in the case file, as well as the requests, defenses and pleas made by the parties, the Department found that the dispute is related to the zakat assessment made by ZATCA for the years 2008 to 2014, which covers five items, namely:

First: Zakat assessment from the fiscal year ending on December 31, 2008 to 2012:

The Plaintiff objects to the Defendant's Decision to issue the zakat assessment for the years 2008 to 2012 after expiration of the period specified by law. The Defendant responded that its Decision was in accordance with the provisions of Implementing Regulations for Zakat Collection, as it discovered differences between the external purchases declared by the Plaintiff and the purchases in the customs declaration, invoking the text of Article 21 of the Implementing Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) of 01/06/1438 AH, which provides that: "...8. The Authority may make or modify the assessment at any time without being bound by the time limit specified in the following cases: A. If the Zakat Payer agrees in writing to the assessment being made or modified. B. If the Zakat Payer does not submit his declaration. C. If it is found that the declaration contains invalid information. 9. The Authority may rectify such error of law and instructions within five years from the end of the time limit specified for submitting the zakat declaration for the zakat year based on the Zakat Payer's request, or if the error is discovered by the Authority or the regulatory authorities. 10. If the Authority discovers any error related to the zakat paid by the zakat payer after the expiry of the above-mentioned periods, the zakat payer shall be so notified to seek discharge from any obligations under Sharia provisions". Accordingly, the Defendant's right to make the Zakat assessment without being bound by a specific period is restricted by the conditions and cases specified by the Law. The Department, having reviewed the documents submitted by both parties, found that the Defendant did not provide material evidence of the existence of invalid information in the Plaintiff's declaration that would entitle it to issue the Zakat assessment without being bound by a period as stated in Paragraph (8) of Article (21) of Implementing Regulations for Zakat Collection, as the modification it made was due to an error in applying the Zakat instructions or a difference in viewpoints regarding the Zakat assessment. Hence, the Defendant's right to make the Zakat assessment shall lapse after a period of (5) years from the expiry of the period specified for submitting the Zakat declaration in accordance with Article 21.10 of Implementing Regulations for Zakat Collection, and since the Defendant did not notify the Plaintiff of the Zakat assessment for the years from 2008 AD to 2012 AD, except after the passage of 5 years from the end of the period set for submitting the zakat declaration, therefore, the Department concludes to cancel the Defendant's Decision.

Second: Import differences from the fiscal year ending on December 31, 2008 to 2014:

The Plaintiff's objects to the Defendant's Decision to add internal purchases to the external purchases. The Defendant argues that its Decision came in compliance with the Implementing Regulations for Zakat Collection, as the Plaintiff failed to submit documents supporting its claims. Since Article 20.3 of the Implementing Regulations for Zakat Collection issued by Ministerial Decision No. (2082) of 01/06/1438 AH stipulates that: "The zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if



he is unable to do so, the Authority may reject the item that the zakat payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it"; and based on the foregoing, where the Department concluded in item First to cancel the the Defendant's Decision for the expiration of the prescribed period for making the zakat assessment, The Department decides to cancel the Defendant's Decision regarding this item for the years from 2008 to 2012. As for the years 2013 and 2014, the Department, having taken cognizance of the case file, established that the Plaintiff did not provide the necessary proof to prove the reasons and justifications for the import differences, nor did it provide the documents supporting its claims; and since the import declaration issued by the customs authority is a solid evidence from a neutral third party, therefore, the Department concludes to dismiss the Plaintiff's objection for the years 2013 and 2014.

Third: Accrued expenses for the fiscal year ending on December 31, 2008 to 2014:

The Plaintiff objects to the Defendant's Decision to add the opening balance and closing balance of accrued expenses to the zakat base claiming that these amounts are actual expenses and should be recognized on the accrual basis, while the Defendant argued that its Decision was in accordance with the provisions of Implementing Regulations for Zakat Collection due to Plaintiff's failure to submit the accrued expenses account movement as Paragraph (5) of Clause (first) of Article (4) of the Implementing Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH stipulated that: **"The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: ... 5. Government and commercial loans and similar other sources of financing such as creditors, payment papers, and overdraft accounts owed by the Zakat payer which: A. remained in cash and had a year passed on it. B. were used to finance acquisition assets. C. were used in trade assets and had a year passed on it"**. Moreover, Article 20.3 stipulates that: **"The zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the zakat payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it"**; and based on the foregoing, where the Department concluded in item First to cancel the the Defendant's Decision for the expiration of the prescribed period for making the zakat assessment, The Department decides to cancel the Defendant's Decision regarding this item for the years from 2008 to 2012. With regard to the years 2013 and 2014, the Department found that the Plaintiff did not submit the detailed movement of the accrued expenses account and its financial statements to match the opening balance and the closing balance and to prove that a year had not passed, and that the Plaintiff only submitted a non-exhaustive statement; and since the trade payables are considered a component of the zakat base, provided that a year has passed on them or they are used to finance the assets deducted from the zakat base, therefore, the Department decides to dismiss the Plaintiff's objection.

Fourth: Depreciation differences from the fiscal year ending on December 31, 2011 to 2014:

The Plaintiff challenges the Defendant's Decision to not calculate the depreciation differences and the remaining value of assets, while the Defendant argued that its procedure was in accordance with the provisions of Implementing Regulations for Zakat Collection, and since paragraph (13) of Article (7) of the Implementing Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH stipulated that: **"for the purpose of estimating the zakat base, joint companies shall adhere to the depreciation method stated in Article 17 of the Tax Law, and they may, if so wish, apply the same method to determine the zakat base for the Saudi side and those treated as such, or use the method specified in the paragraphs above"**. Accordingly, and with regard to the years 2011 and 2012, and since the Department's Decision in item (First) ruled to cancel the Defendant's Decision due to the expiry of the period specified by law for conducting the zakat assessment, the Department



decides to cancel the Defendant's Decision for the years 2011 and 2012. As for the years 2013 and 2014, it was established that the dispute is about the Defendant having failed to provide the Plaintiff with the method of calculating the depreciation. The Department, having reviewed the case file and the plea submitted by the Defendant, found that the Defendant's procedure as to applying the depreciation method was valid but it didn't provide the Plaintiff with the Grounds for calculation and modification, and given that the burden of proof falls with the Defendant to prove that the Plaintiff did not account for the depreciation expense, and since the Defendant didn't submit a statement of fixed assets and their depreciation, therefore, the Department concludes to cancel the Defendant's Decision for the years 2013 and 2014.

Fifth Bad debts for the fiscal year ending on December 31, 2008:

Since the Department's Decision in item First concluded to cancel the Defendant's Decision due to the expiry of the specified period for conducting the zakat assessment, the Department decides to cancel the Defendant's Decision regarding this item.

For those Grounds and after deliberation, the Department unanimously decided to:

Decision

First: Dismiss the objection of the Plaintiff.....Company TIN No..... to the Decision of the Defendant ZATCA related to the import differences for the years 2013 and 2014.

Second: Dismiss the objection of the Plaintiff.....Company TIN No..... to the Decision of the Defendant ZATCA related to the accrued expenses for the years 2013 and 2014.

Third: Cancel all other Decisions of the Defendant ZATCA against the PlaintiffCompany TIN No..... related to the assessments subject matter of this case.

This Decision was delivered in presence of Parties. The Department has set Monday 27/07/1443 AH for receiving and a copy of the Decision. The Parties to this case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, this Decision becomes final and enforceable

Appellate Committee:

The Appellate Committee decided to uphold the Decision.



Committee for Determination of Tax Violations and Disputes

Decision No. IFR-2022-4462
Case No. Z-43199-2021

Third Circuit for Settling Income Tax Violations and Disputes In Riyadh

Key words:

Zakat - Accounts - Loans - Suppliers - Dividends

Abstract

The Zakat Payer instituted this case requesting to cancel ZATCA's Decision regarding the zakat assessment for the year 2017. The Zakat Payer objects to the zakat assessment issued by the Defendant for the year 2017, specifically with regard to Item (Loans 2017) which totaled SAR 8,262,851, Item (Suppliers 2017) which totaled 8,262,851, and Item (Dividends) which totaled SAR 5,000,000 for the year 2017. The Department established that as for the Loans item, the Defendant has provided evidence of the validity of its action, and as for Item (Suppliers), it was found that the Plaintiff had used that amount to import equipment and machinery in the amount of SAR 1,054,680, while for Item (Dividends), it is established that zakat obligation applies only to the funds held in possession of the Plaintiff until the end of the lunar year. Accordingly, the Department decided to dismiss the case.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- Article 20.1 of the [Tax Disputes and Violations Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- Articles 55 and 56 of [the Law of Civil Procedures promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- Paragraphs (First), (First/5) and (8) of Clause (First) of Article (4) of the Implementing Regulations for Zakat Collection promulgated by the Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

The facts of this case are summed up as follows:, National ID No., in his capacity as the Director ofCompany, C.R. No..... has filed an objection to the zakat assessment issued by ZATCA for the year 2017. The Plaintiff objected to three items: Item First "Loans". The Plaintiff objects to the Defendant's Decision in respect of the Item (Loans 2017) which totaled SAR 8,262,851, Arguing in his statement of claims that the period from the date of granting the financing which was 19/10/2017 until the date of calculating the zakat is not a full year adding that these loans were added to the zakat base in the following year (2018). The Zakat Payer also added that the adjusted amount in the draft is greater than the financing granted to the Company, which is SAR 7,453,495, where



the loan was adjusted by adding the bank commission due upon payment of installments which amounts to SAR 809,356 bringing the total to SAR 8,262,851. The Zakat Payer argued that the bank commission was not added to the full value of asset, and the part due upon operation of the project was added to financing expenses and liabilities. Accordingly, the Plaintiff claimed that this item not be calculated within the zakat base for not having a year passed over it. Item Second: Suppliers: The Plaintiff objects to the Defendant's Decision regarding the Suppliers 2017 item which totaled SAR 8,262,851 basing its claim on Grounds that the transaction was recorded on 22/11/2017 AD, and a year has not passed over it since the date of the zakat provision is 31/12/2017 AD, and accordingly, the Plaintiff claimed that this item not be calculated within the zakat base for not having a year passed over it. Item Third: Dividends: The Plaintiff objects to the Defendant's procedure in respect of the Dividends item amounting to SAR 5,000,000 for the year 2017. The Plaintiff explained that the dividends had been distributed to the partners on 22/12/2017 and that this amount was paid cash liquidity was available and before the end of the fiscal year on 31/12/2017 and on its basis all other zakat items were calculated. The Plaintiff clarified that these dividends are not calculated in the zakat base for the year 2017 AD, and they are supposed to be deducted from the next financial base of the year 2018, which did not happen. Accordingly, it pleads with the Department to review these adjustments to the zakat declaration for the year 2017 AD, Requesting that the Defendant's Decision be canceled.

Having presented the statement of claims to the Defendant, it responded as follows: as for Item First "Loans": Upon assessment, ZATCA added the item to the zakat base for being used in financing the import of equipment, machinery and projects under implementation according to the Plaintiff's statements replying to ZATCA's inquiries. Through due examination, it was found that the Plaintiff stated that a year has not passed over the loan requesting that it is not added to the zakat base, while ZATCA added the same arguing that it had been used to finance equipment in 2015, and in 2017 it was added on account of the projects under implementation. By referring to the cashflow statement, it was found that there were additions made to fixed assets in the amount of SAR 4,629,596, and in 2017 there were additions to projects under implementation in the amount of SAR 11,043,868 and to equipment in the amount of SAR 260,487. Accordingly, as long as the purpose of the loans is to finance the elements that are deducted from the Zakat base, and based on the statement of the Plaintiff as well as the text of Article 4.5 of the Implementing Regulations for implementing Regulations for Zakat Collection issued in 1438 AH, which states that: "1. The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 5. Government and commercial loans and similar other sources of financing such as creditors, payment papers, and overdraft accounts owed by the Zakat payer which: A. remained in cash and had a year passed on it. B. were used to finance acquisition assets. C. were used in trade assets and had a year passed on it" Accordingly, ZATCA rejected the Plaintiff's objection regarding the above item. As for Item Second (Suppliers): Upon assessment, ZATCA added that item to the zakat base amounting to SAR 1,054,680, for being used to import equipment and machinery amounting to SAR 1,054,680. Through due examination, it was found that the Plaintiff claims that a year has not passed over the item, while the added amount was added on account of projects under implementation based on the statements provided, which is an element that should be deducted from the Zakat base, and based on Article 4.5 of the implementing Regulations for Zakat Collection issued in 1438 AH, which states that: "1. The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 5. Government and commercial loans and similar other sources of financing such as creditors, payment papers, and overdraft accounts owed by the Zakat payer which: A. remained in cash and had a year passed on it. B. were used to finance acquisition assets. C. were used in trade assets and had a year passed on it"



Accordingly, ZATCA rejected the Plaintiff's objection regarding the above item and maintained the validity of its procedure. As for Item Third (Dividends): ZATCA added the item to the zakat base, as the withdrawals were made after the lunar year had passed on .. / .. / Through due examination and having reviewed and considered the statements submitted, it was found that ZATCA's procedure was valid, as the withdrawals made after .. / .. / ... were added to the zakat base for having a lunar year passed on them, as the collection of Zakat is done as per the Sharia rules and fatwas issued by the competent authorities. The Council of Senior Scholars issued Fatwa No. 222 on 29/07/1426 AH stipulating that the lunar calendar shall be adopted for calculation of zakat. Moreover, the Grand Mufti of the Kingdom also sent the Letter No. 1043/2 of 20/08/1428 AH to His Excellency the Minister of Finance directing that all companies must be called for making a zakat budget according to the Hijri year as per Sharia provisions. In issuance of its Decision regarding this item, ZATCA relied on paragraphs (8 & 11) of Article (4) of the implementing Regulations for Zakat Collection issued in 1438 AH, which states: "First: The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 8. The balance of profits carried forward from previous years at the end of the year. 11. Dividends under distribution excluding the dividends announced for distribution but their owners have not received them, provided that they are deposited in a special account that the company is not allowed to dispose of". Accordingly, ZATCA rejected the Plaintiff's objection regarding the above item. ZATCA the Defendant concluded its plea moving to dismiss the case, while reserving its right to submit further responses and clarifications to the Plaintiff's objection before the Committee.

On/....., the Department held its session remotely to hear the case. Having called the opponents, neither the Plaintiff nor his Representative appeared despite being duly notified of the session. For the Defendant appeared Mr....., National ID No., in his capacity as the Defendant's Representative pursuant to the Authorization No..... Of/..... issued by the Deputy Governor of ZATCA for Legal Affairs. Having asked the Defendant's Representative about his reply to the Plaintiff claims, he maintained the statements contained in the Defendant's plea filed with the General Secretariat, and having asked him if he had any other statements to add, he answered "no".. Therefore, the Department decided to close pleadings for deliberation.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form; Since the Plaintiff instituted this case moving to cancel the Decision of ZATCA regarding the zakat assessment for the year 2017 AD, and since this dispute is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a person with capacity, and within the period prescribed by law, it is therefore accepted in form.

As on Merits: Having examined the case papers and the requests, defenses and pleas entered by the parties. The Department established that the dispute is centered around the Plaintiff's objection to the zakat assessment for the year 2017 issued by the Plaintiff, limiting its objection to three items, namely:

Item First Loans:



The Plaintiff objects to the Defendant's Decision regarding the item (Loans 2017) in the amount of SAR 8,262,851, while the Defendant argued that when making the assessment, it added the item to the zakat base for being used in financing the import of equipment, machinery and projects under implementation.

Based on Paragraph (First/5) of Article (4) of the Implementing Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, which provides that: "The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 5- Government and commercial loans and similar other sources of financing such as creditors, payment papers, and overdraft accounts owed by the Zakat payer which: A. remained in cash and had a year passed on it. B. were used to finance acquisition assets. C. were used in trade assets and had a year passed on it"

As such, and since loans are one of the components of the zakat base, regardless of their type, source or classification, provided that a year has passed on them or that they are used to finance assets deducted from the zakat base without requiring that a year has passed on them, and upon reviewing the documents attached to the case file, and since the Defendant has provided evidence of the validity of its procedure, as the transfer document proves that equipment was purchased from abroad in the amount of SAR 7,382,760.00 on 19/10/2017 which indicates that those loans have been used to finance fixed assets, therefore, the department concludes to reject the Plaintiff's objection.

Item Second: Suppliers:

The Plaintiff objects to the Defendant's Decision regarding the item (Suppliers 2017) which amounted to SAR 8,262,851, while the Defendant argued that upon assessment, it added the item to the zakat base in the amount of SAR 1,054,680 for being used to import equipment and machinery in the amount of SAR 1,054,680.

Based on Paragraph (First) of Article (4) of the Implementing Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, which provides that: "The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: ... 5. Government and commercial loans and similar other sources of financing such as creditors, payment papers, and overdraft accounts owed by the Zakat payer which: A. remained in cash and had a year passed on it. B. were used to finance acquisition assets. C. were used in trade assets and had a year passed on it".

Based on the above, and since the amounts withheld from suppliers to ensure good performance are considered a component of the zakat base provided that a year has passed on them or they are used to finance assets deducted from the zakat base, and having reviewed the transfers contained in the case file, and since the Plaintiff used the amount to import equipment and machinery in the amount of SAR 1,054,680, therefore, this Department decides to reject the Plaintiff's objection.

Item Third: Dividends

The Plaintiff objects to the Defendant's Decision regarding the item (Dividends) for the year 2017, which totaled SAR 5,000,000, while the Defendant argued that upon assessment, it added the item Dividends to the zakat base, on Grounds that the withdrawals took place after a year had passed.

Based on paragraphs (8 & 11) of Article (4) of the implementing Regulations for Zakat Collection issued in 1438 AH, which stipulates that: "The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: "8. The balance of profits carried forward from previous years at the end of the year. 11. Dividends under distribution excluding the dividends announced for distribution but their owners have not received them, provided that they are deposited in a special account that the company is not allowed to dispose of", and based on the Decision of the Appeal Committee No. (IR-2020-66) delivered in Case No. (1708-2018-Z), which reads that "Having considered the Appellant's objection to this item as stated above; and since the primary Decision confirmed that the dividends



amounting to SAR 10,000,000 are added to the Zakat Payer's zakat base for the year 2008 AD; and since the primary Decision has given sufficient response to the Appellant's arguments, whereby it attempted to challenge the committee's Decision to adopt the lunar year for charging zakat on the money held in possession of the zakat payer for a full lunar year; and since this the Department has no comment or adjustment to the conclusion reached by the primary committee in light of the defenses submitted by the Appellant that don't bring anything new beyond the arguments raised before the primary committee. This conclusion also is not affected by the Appellant's attempting to challenge the Authority's approach -which is upheld by the primary committee- that there is unjustified selectivity in adopting the Gregorian calender for fiscal years when preparing the financial statements for the Zakat Payer's fiscal year, and measuring and recording the financial events that occurred during it and on the other hand adopting the lunar calender for charging zakat, because the legal obligation of zakat is contingent upon the zakatable funds being held in the zakat payer for a full lunar year while allowing zakat payers to adopt Georgian calender for fiscal years aims at facilitating their financial and accounting work without having any effect on the obligation to pay Zakat when falls due. Accordingly, this Department decides to dismiss the Zakat Payer's appeal regarding this item, and to uphold the primary Decision in respect of this matter".

Based on the above, and since the the legal obligation of zakat is contingent upon the zakatable funds being held in the zakat payer for a full lunar year while allowing zakat payers to adopt Georgian calender for fiscal years aims at facilitating their financial and accounting work without having any effect on the obligation to pay Zakat when falls due and given that the Plaintiff argued that the dividends realized during the year should be deducted from the zakat base on Grounds that the calender adopted for preparing its financial statements is the Gregorian calender and not the lunar calender, therefore, the Department decided to dismiss the Plaintiff's objection.

As for failure of Plaintiff or its Attorney to attend the hearing despite of being duly notified and Department's Decision in Case subject matter of consideration in absentia without an excuse acceptable to the Department, the Department relied on Paragraph (1) of Article (20) of Tax Dispute and Violation Committee Procedures that states: "If a Plaintiff fails to attend any hearing after being notified of the date set for consideration of the suit without an excuse acceptable to the circuit, the circuit must decide the suit if it is ripe for judgment". In addition, the Decision rendered in this case shall be deemed as if rendered in presence of Plaintiff in accordance with Article (56) of the Law of Civil Procedure that states: "If the plaintiff fails to attend the court hearings, in accordance with Article 55 of this Law, the defendant may petition the court to rule on the merits of the case. The court shall rule on the case if it is ripe for judgment and such judgment shall be deemed as if rendered in the presence of the plaintiff". Since Plaintiff did not submit an acceptable excuse for failure to attend the hearing, and that the Department has deemed that the Case is ripe for adjudication according to Case documents. Therefore, the Department renders its Decision in the Case as if in presence of Plaintiff.

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

Decision

Accept objection filed by Plaintiff (... Company), C.R. No. (...), to Defendant (ZATCA) Decision regarding zakat assessment subject matter of the Case in form and dismiss Plaintiff's Case on merits.



This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection. May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.

Appel Committee:

The Appel Committee decided to uphold the Decision.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IFR-2022-3100
Case No. Z-21911-2020

Key words:

Zakat - Estimate - Management Fees - Land Contributions - Estimate Assessment

Abstract

Zakat Payer requests overturning ZATCA Decision regarding estimate assessment for years from 2015 to 2018. Zakat Payer's appeal involves Defendant's procedure regarding (Management Fees) item, (Land Contributions) item and (Estimate Assessment) item, as it was proven, regarding (Management Fees) item, that Zakat Payer did not provide supporting documents for expenses subject matter of the dispute, in addition to (Land Contributions) item, as Zakat Payer did not attach the audited financial statements for years in question and did not submit Board resolutions that elaborate intention behind investment or contribution. Regarding (Estimate Assessment) item, Zakat Payer did not attach the audited financial statements for 2018 and did not provide justifications and reasons for delay in filing declaration, while it is proven that Zakat Payer was given an opportunity by Defendant for submitting such statements and issuing assessment. Therefore, the Department dismisses the objection filed by Zakat Payer.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH
- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH
- Paragraph (1) of Clause (Second) of Article (4), Article (5), Paragraph (2) of Article (6), Article (14), Paragraph (5/A) of Article (13) and Paragraph (3) of Article (20) of the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH
 - Implementing Regulations of Income Tax Law promulgated by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH

Facts:

The facts of this Case are summed up that (...), holder of National ID No. (...), in his capacity as the legal Representative of Plaintiff (... Company), C.R No. (...), filed an objection to ZATCA zakat assessment for years from 2015 to 2018. In addition, Plaintiff's objection is limited to three items: Management Fees for 2015, 2016 and 2017, as Plaintiff objects to Defendant's procedure outlined in rejecting management fee expense for 2015, 2016 and 2017. Plaintiff's stance is outlined that management fee expense is one of the ordinary expenses necessary for realizing income. In addition, Plaintiff stated that the said fees were not released for shareholders, as such fees were paid to Mr. (...) who is not among shareholders, noting that he is GOSI-registered. Plaintiff believes that ZATCA applied



provisions of Paragraph (2) of Article (5) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2028) dated 01/06/1438 AH that states: “Salaries and allowances of owner of the enterprise, whether it is a sole proprietorship, a corporation or a partnership, as well as bonuses paid to board Chairman, Deputy Chairman and members who are shareholders in the company, shall be considered deductible expenses, provided that owner’s salaries and allowances are registered with GOSI”. In addition, Plaintiff stated that the rejected expense is subject to provisions of Paragraph (2) of Article (5) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2028) dated 01/06/1438 AH. Thereupon, Plaintiff requested overturning ZATCA procedure and approve the expense in dispute. Second Item: Land Contributions for 2015, 2016 and 2018: Plaintiff objects to Defendant’s procedure outlined in rejecting deduction of land contribution for 2015, 2016 and 2018 from zakat base. Plaintiff stated that the lands to which Plaintiff contributed is for the purpose of acquisition, and that no transactions have been made regarding its balance. In addition, Plaintiff referred to Advisory Committee Letter signed by H.E. ZATCA Governor No. 62323/80/1438 dated 16/09/1438 AH, which states that securities available for sale shall be deducted from zakat base, provided that there has been no sale transaction during the year. Plaintiff also attached a schedule of balances showing balance for each year. Thereupon, Plaintiff requests overturning ZATCA procedure and deducting value if investment from zakat base. Third Item: Estimate Assessment for 2018: Plaintiff objects to Defendant’s procedure regarding estimate zakat assessment for 2018. Plaintiff’s stance is outlined that Defendant made estimate assessment on the ground that adjusted net profit for 2018 is the same one for 2017, and submitted a schedule prepared by Plaintiff for calculating zakat base for 2018, 2015, 2016 and 2017. Thereupon, Plaintiff requested overturning ZATCA procedure and deducting donation balance from zakat base.

Having presented the statement of claim to Defendant, it answered as follows: regarding First Item: Management Fees for 2015, 2016 and 2017: The said expense was rejected due to failure to provide supporting documents for your stance in accordance with Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat issued by Minister of Finance Resolution No. (2028) dated 01/06/1438 AH. As for Second Item: Land Contributions for 2015, 2016 and 2018: The deduction of investment amount from zakat base was rejected due to failure to provide evidence that the investment is subject to zakat in accordance with Paragraph (4.A) of Clause (Second) of Article (4) of the Implementing Regulations for the Collection of Zakat issued by Minister of Finance Resolution No. (2028) dated 01/06/1438 AH. Regarding Third Item: Estimate Assessment for 2018: ZATCA made estimate assessment due to failure to file declaration in accordance with Paragraph (5) of Article (13) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH that states: “ZATCA shall be entitled to make estimate assessment in the event of Zakat Payer’s failure to file zakat declaration based on statutory books and records within the statutory period.” and Paragraphs (2 and 3) of Article (20) of the Implementing Regulations of Royal Decree No. (M/40) dated 02/07/1405 issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH, in addition to Paragraph (8) of Article (21) that vested ZATCA with making assessment at any time. Therefore, the assessment was made through data available at ZATCA. Thereupon, ZATCA insists on accuracy and correctness of its procedure. ZATCA the Defendant concluded its plea moving to dismiss the case, while reserving its right to submit further responses and clarifications to the Plaintiff’s objection before the Committee.

On Sunday, 29/05/1443 AH, the Department held its session remotely to consider the Case. Having called litigants, the Department found that (...), holder of National ID No. (...), appeared in his capacity as Plaintiff’s Attorney under POA No. (...). In addition, (...), holder of National ID No. (...), appeared in his capacity as Defendant (ZATCA)



Representative under Authorization No. (...) dated .././... AH issued by ZATCA Deputy Governor for Legal Affairs. Having asked Plaintiff's Attorney about the claim, he gave answers that do not differ from the statements included in the statement of claim lodged with the General Secretariat of Tax Dispute and Violation Committees. Having confronted Defendant's representative of the same, he answered by insisting on the answer lodged with the General Secretariat of Tax Dispute and Violation Committees. Having asked both parties to the Case if they would like to add any statements or documents, they answered "no". Therefore, the Department decided to close pleadings for deliberation.

Grounds

Having pursued Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH and its Implementing Regulations issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH as amended. Having perused Income Tax Law issued 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. Having perused Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to cancel ZATCA Decision regarding zakat assessment for years from 2015 to 2018, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of Committee for Determination of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH. Given that 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 documents included in Case file, requests, defense and arguments raised by the parties, the Department found that the dispute involves the fact that ZATCA issued zakat assessment for years from 2015 to 2018. In addition, Plaintiff objects to three items:

Item First Management Fees for 2015, 2016 and 2017:

Plaintiff's objection involves Defendant's procedure outlined in rejecting management fee expense for 2015, 2016 and 2017. On the other hand, Defendant argued that the said expense was rejected due to failure to provide the supporting documents.

In accordance with Paragraph (1.A) of Article (5) of the Implementing Regulations for the Collection of Zakat issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH, concerning deductible expenses, that stipulates: "Expenses ordinary and necessary for an entity to engage in business activity, whether paid or due, shall be deducted to determine the net result of the activity, subject to meeting the following criteria: a. Expenses should be actual expenses as supported by relevant documents and other evidential matter to enable the Authority to verify the accuracy of expenses, even if related to prior years". Paragraph (2) of Article (6) of the same Regulations related to deductible expenses states: "Expenses that the Zakat Payer fails to prove by supporting documents or other evidential matter acceptable to the Authority". Paragraph (3) of Article (20) thereof states: "The burden of proving validity of the items mentioned in Zakat Payer's declaration and any other data shall fall on Zakat Payer. In the event that Zakat Payer is unable to prove validity of the items mentioned in his declaration, ZATCA may not approve the item whose validity is not proven by Zakat Payer or make an estimate assessment according to its discretion in light of circumstances and facts related to the Case and information available therewith".

Based on the foregoing, since such expenses are considered deductible if proven to be actual expenses supported by supporting documents. Since the dispute regarding this



item is document-based. Having taken cognizance of documents included in Case file, the Department found that Plaintiff did not provided supporting documents for expenses subject matter of the dispute. Therefore, the Department dismisses Plaintiff's objection.

Item Second: Land Contributions for 2015, 2016 and 2018:

Plaintiff's objection involves ZATCA procedure outlined in rejecting deduction of land contribution for 2015, 2016 and 2018 from zakat base. On the other hand, Defendant argued that the deduction of investment amount from zakat base was rejected due to failure to provide evidence that the investment is subject to zakat.

In accordance with Paragraph (1) of Clause (Second) of Article (4) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH that states: "The following items shall be deducted from the zakat base of a Zakat Payer who maintains Commercial Records: 1. Net fixed assets and equivalents, including, for example though not limited to, the following: Fixed assets obtained for use, payments for the purchase of fixed assets, spare parts and materials not for sale, provided that these assets are owned by Zakat Payer, unless there is a legal impediment to transferring ownership, and that they are used in the activity." Paragraph (3) of Article (20) thereof states: "The burden of proving validity of the items mentioned in Zakat Payer's declaration and any other data shall fall on Zakat Payer. In the event that Zakat Payer is unable to prove validity of the items mentioned in his declaration, ZATCA may not approve the item whose validity is not proven by Zakat Payer or make an estimate assessment according to its discretion in light of circumstances and facts related to the Case and information available therewith".

Based on the foregoing, since two primary conditions shall be met in order to consider investment as long-term investments deductible from zakat base: The documented intention of the authorized person indicating the purpose of investment, and the lack of sale transactions during the year on those investments. Having taken cognizance of documents included in Case file, the Department found that Plaintiff did not attach the audited financial statements for years in question and did not provide board resolutions that indicate the intention behind investment or contribution. Therefore, the Department dismisses Plaintiff's objection.

Item Third: Estimate Assessment for 2018:

Zakat Payer objects to ZATCA procedure outlined in making estimate zakat assessment for 2018. On the other hand, Defendant argued that it made estimate assessment due to Plaintiff's failure to file declaration.

In accordance with Paragraph (5.A) of Article (13) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH that states: "ZATCA shall be entitled to assess Zakat Payers based on estimate manner in order to oblige them to comply with legal requirements in the following cases: A. Zakat Payer's failure to file its declaration based on statutory books and records within the statutory period.

Based on the foregoing, since zakat base is calculated based on Plaintiff's declaration as stated in the submitted declarations, Plaintiff is required to provide supporting evidence that validates accuracy of those declarations. In addition, the financial statements outline the primary option supporting calculation of zakat base. Moreover, the above-mentioned legal texts elaborate that Defendant shall be entitled to assess Zakat Payer based on estimate manner, but this right is conditional on achieving one of the cases stipulated by Paragraph (5) of Article (13) of the Implementing Regulations for the Collection of Zakat. Having taken cognizance of Case file, the Department found that Plaintiff did not attach the audited financial statements for 2018 and did not provide justifications and reasons that resulted in delay in filing declaration. Since Plaintiff did not provide Defendant with the financial statements and declaration despite of being given an opportunity by



Defendant to provide such financial statements and issue assessment. Therefore, the Department dismisses Plaintiff's objection.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision

Accept objection filed by Plaintiff (... Company), C.R. No. (...), to Defendant (ZATCA) Decision regarding zakat assessment subject matter of the Case in form and dismiss Plaintiff's Case on merits.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection
May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.

Appellate Committee:

The Appellate Committee decided to uphold the Decision.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IFR-2022-232
Case No. Z-59037-2021

Key words:

Zakat - Accounts - Issuing Zakat Assessment - Canceling Commercial Register

Abstract

Zakat Payer requests canceling ZATCA Decision regarding zakat assessment for years from 1433 to 1441. The dispute involves Zakat Payer's objection to Defendant's procedure outlined in issuing zakat assessment for years in question. In addition, the Department found that Defendant failed to provide evidence that Zakat Payer exercised activity within years in question. Therefore, the Department accepts the Case and overturns Defendant's Decision regarding zakat assessment.

Instruments:

- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- Paragraph (6) of Article (11) of the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2216) dated 07/07/1440 AH

Facts:

The facts of this Case are summarized in that Plaintiff (...), holder of National ID No. (...), in his capacity as the Owner of (... Enterprise), C.R. No. (...), filed an objection to ZATCA zakat assessment for year from 1433 to 1441.

Having presented the statement of claim to Defendant, it argued that the Case should be dismissed in form due to Plaintiff's failure to file an objection before it within time-limit in accordance with Article (3) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, while maintaining Defendant's right to submit further responses and clarifications before closing of pleadings.

In addition, Defendant submitted a supplementary memorandum, which included its substantive response, stating that its Decision was made in accordance with Articles (3) and (4) of Rules of Calculating Zakat for Estimate Taxpayers issued by H.E. Minister of Finance Resolution No. (852) dated 28/02/1441 AH.

On Tuesday, 09/06/1443 AH, the Department held its session remotely to consider the Case, where Plaintiff appeared in person. In addition, (...), holder of National ID No. (...), appeared in his capacity as Defendant (ZATCA) Representative under Authorization No. (...) dated ../../... AH issued by ZATCA Deputy Governor for Legal Affairs. Having asked



Plaintiff about its claim, Plaintiff answered by insisting on the statement of claim lodged with the General Secretariat of Tax Dispute and Violation Committees, and stated that Plaintiff does not have an e-account at Defendant, which is typically used to notify Zakat Payers of their assessments. In addition, Defendant only sent Plaintiff SMS regarding this matter. When Plaintiff approached Defendant to file an objection, Plaintiff was informed by Defendant's specialists that the statutory period for objection had expired, noting that Plaintiff had previously, when his activities were ceased, approached Defendant and paid his due zakat liabilities several years ago. Having confronted Defendant's Representative of the same, he answered by insisting on statements included in Defendant's answer and requested the Department not to accept any new documents that were not provided to Defendant throughout examination and objection phase. In addition, Defendant's Representative added that ZATCA communicated Plaintiff through his information written down in his commercial register by virtue of Defendant's powers to access such information. Thereupon, the Department asked Defendant's Representative to submit its substantive answer to Plaintiff's claim, including documents that prove whether Plaintiff has exercised activity throughout the period in question, and adjourned Case consideration to Sunday, 13/06/1443 AH.

On Sunday, 13/06/1443 AH, the Department held its session remotely to consider the Case, where Plaintiff appeared in person. In addition, (...), holder of National ID No. (...), appeared in his capacity as Defendant (ZATCA) Representative under Authorization No. (...) dated .././... AH issued by ZATCA Deputy Governor for Legal Affairs. Having asked Plaintiff about its claim, Plaintiff answered by insisting on the statement of claim lodged with the General Secretariat of Tax Dispute and Violation Committees. Having confronted Defendant's Representative of the same, he answered by insisting on statements included in Defendant's answer and requested the Department not to accept any new documents. In addition, Defendant's Representative added that Defendant submitted its answer to the matters inquired by the Department in the preceding session. Having taken cognizance of Defendant's answer, the Department found that Defendant did not answer to inquiry about whether Defendant has exercised activity throughout the period in question. In addition, the Department found that Defendant did not prove that Defendant informed Plaintiff of zakat assessment subject matter of the dispute. Having asked both parties if they had other statements, they answered "no". Therefore, the Department decided to close pleadings for deliberation.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 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 the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to cancel ZATCA Decision regarding zakat assessment for years from 1433 to 1441, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of Committee for Determination of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH. Since it is established from Case documents that Plaintiff filed the Case within the statutory period and by a party having capacity. Therefore, the Department accepts the Case in form.

On Merits: Having taken cognizance of documents included in Case file, requests, defense and arguments raised by parties to the Case, the Department found that the dispute



involves Plaintiff's objection to Defendant's procedure outlined in issuing zakat assessment for years from 1433 to 1441. In addition, Plaintiff stated that zakat assessment was issued after the date of canceling Enterprise's commercial registration, during which no commercial activities were conducted, and that the Enterprise does not hold any bank accounts. On the other hand, Defendant argued that its Decision was issued in accordance with provisions of the Rules of Calculating Zakat for Estimate Taxpayers.

In accordance with Paragraph (6) of Article (11) of the Implementing Regulations for the Collection of Zakat issued by Minister of Finance Resolution No. (2216) dated 07/07/1440 AH that states: "The Authority may account for a Zakat Payer on deemed basis in the following cases: 6. The information reported in Zakat Payer's declaration is found to be incorrect". In addition, Paragraph (3) of Article (20) thereof states: "The zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the zakat payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it".

Based on the foregoing, having taken cognizance of documents submitted by both parties, the Department found that Plaintiff denied exercising activity for 1433-1441, and that Defendant did not provide evidence to the contrary, in particular that Defendant has access to information that enable it to prove the same by directly and continuously accessing any information directly related to Zakat Payer maintained by third party that reveals the volume of imports, contracts, workforce, loans, subsidies received and VAT data. Thereupon, the Department concludes - in light of the principles that state being innocent is the rule, the default is non-existence and sanctity of wealth which cannot be infringed upon except by a clear legal or statutory text - that Defendant failed to provide evidence that Plaintiff exercised activity throughout the years in question despite having access to such data that serves as strong evidence supporting that Plaintiff did not exercise activity. Therefore, the Department accepts Plaintiff's objection and cancels Defendant's procedure regarding zakat assessment subject matter of the dispute.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision

Cancel Defendant (ZATCA) Decision against Plaintiff (...), TIN No. (...), regarding zakat assessment subject matter of the dispute.

This Decision was delivered in presence of the parties. The Department set Sunday, 27/06/1443 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not challenge the Decision.

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

Appellate Committee:

The Appellate Committee decided to uphold the Decision.



Key words:

Zakat - Accounts - Issuing Zakat Assessment - Capital - Categories Not Required to Keep Books - Statutory Records.

Abstract

Zakat Payer requests canceling ZATCA Decision regarding zakat assessment for years from 1429 to 1441. The dispute involves Zakat Payer's objection to Defendant's procedure outlined in issuing zakat assessment for years from 1429 to 1441. Since the Department found, regarding zakat assessment for years from 1429 to 1432, that Zakat Payer is considered one of the categories that are not required to keep statutory books and records. Therefore, the Department dismisses Zakat Payer's objection to Defendant's Decisions regarding zakat assessments for years from 1429 to 1432 and amends Defendant's Decisions against Zakat Payer regarding zakat assessments for years from 1433 to 1441.

Instruments:

- Paragraph (6) of Article (13) of the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

The facts of this case are summed up as follows: Mr....., holder of National ID No. (...), in his capacity as Attorney of Plaintiff (...), holder of National ID No. (...), under POA No. (...) dated .././... AH, filed an objection to ZATCA zakat assessment for year from 1429 to 1441.

Having presented the statement of claim to Defendant, it answered with the following: "The Case is inadmissible in form, due to the failure to submit the objection within the statutory period pursuant to Article (3) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. In addition, Defendant preserves its right to present further responses and clarifications until pleadings closure."

In addition, Defendant submitted a supplementary memorandum included a statement of ticket submitted by Plaintiff, including its subject matter and date. On Tuesday, 09/06/1443 AH, the Department held its session remotely to consider the Case. At that session, (...), holder of National ID No. (...), appeared in his capacity Plaintiff's Attorney under POA No. (...) dated .././... AH, and (...) appeared holder of National ID No. (...), in his capacity as Defendant/ZATCA Representative by virtue of Authorization No..... dated .././... AH issued by the Deputy Governor for Legal Affairs and Compliance. Having asked Plaintiff's Attorney about his claim, he answered that it does differ from statements included in the statement of claim lodged with the General Secretariat of Tax Dispute and Violation Committees, and added that his principal attached to Case file a



copy of SMS of a ticket submitted by Defendant on .././... AD wherein objects to zakat assessment subject matter of the dispute. Having confronted Defendant's Representative of the same, he answered by insisting on statements included in Defendant's answer and requested the Department not to accept any new documents that were not submitted throughout examination and objection phase, and stated that the ticket mentioned by Plaintiff's Attorney does not definitively prove that Plaintiff objected to the contested Decision within the statutory period, as there is a specific form and mechanism for objection. Thereupon, the Department asked Defendant's Representative to provide a statement about the ticket mentioned by Plaintiff's Attorney in this session, including its subject matter and date, and adjourned Case consideration to Sunday, 13/06/1443 AH.

On Sunday, 13/06/1443 AH, the Department held its session remotely to consider the Case, where (...), holder of National ID No. (...), appeared in his capacity Plaintiff's Attorney under POA No. (...) dated .././... AH. In addition, (...), holder of National ID No. (...), appeared in his capacity as Defendant (ZATCA) Representative under Authorization No. (...) dated .././... AH issued by ZATCA Deputy Governor for Legal Affairs. Having asked Plaintiff's Attorney about the claim, Plaintiff answered by insisting on the statements included in the statement of claim lodged with the General Secretariat of Tax Dispute and Violation Committees. Having confronted Defendant's Representative of the same, Defendant answered by insisting on the statements included in Defendant's answer and requested the Department not to accept any new documents that were not submitted throughout examination and objection phase, and submitted a copy of two commercial registers the belong to Plaintiff, one of which with capital amounting to SAR 2,500,000 and expired on .././... AH, and the other one with capital amounting to SAR 25,000 elaborating that the last transaction dated .././... AH. Such copy was included in Case file accompanied with a number of documents related to Plaintiff's personnel. Having asked both parties if they had other statements, they answered "no". Therefore, the Department decided to close pleadings for deliberation.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH, and the 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 Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff filed the case to abolish Defendant's Decision regarding Zakat Assessment for years from 1429 to 1441 AH, and since this dispute is a Zakat dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Decree No. (26040) of 21/04/1441 AH, and since the Case was filed by a person with capacity, and within the period prescribed by Law, it is then accepted in form.

On Merits: Having taken cognizance of documents included in Case file, requests, defense and arguments raised by parties to the Case, the Department found that the dispute involves Plaintiff's objection to Defendant's procedure outlined in issuing zakat assessment for years from 1429 to 1441 regarding a total amount of SAR 1,043,828.13. On the other hand, Defendant requested the Department to dismiss the Case in form.

In accordance with Paragraph (6) of Article (13) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH that states: "Estimate zakat base consists of the following unless Zakat Payer's declaration



shows a larger base: A. Working capital shall be determined by any available means, whether through the commercial register, company contracts and its articles of association or any other supporting document. If it turns out that the actual working capital differs from the same, ZATCA shall be entitled to determine it in proportion to the volume of activity and the number of capital cycles according to industry, trade or business norms". In addition, Paragraph (3) of Article (20) of the same Regulations states: "The zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the zakat payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it".

Based on the foregoing, having taken cognizance of documents submitted by both parties regarding years from 1429 to 1432, the Department found that Plaintiff did not provide documents that support its statement of claim. Therefore, the Department dismisses Plaintiff's objection regarding years from 1429 to 1432. As for years from 1433 to 1441: Having taken cognizance of information provided by both parties, the Department found that Plaintiff's capital amounts to SAR 25,000 according to its commercial register. Since Plaintiff is considered one of categories that are not required to keep statutory books and records, the Department found that Defendant's procedure for determining capital in estimate zakat assessment subject matter of objection is invalid in accordance with Paragraph (6.A) of Article (13) of the Implementing Regulations for the Collection of Zakat above-mentioned. Therefore, the Department amends Defendant's Decisions regarding zakat assessments for years from 1433 to 1441.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision

First: Dismiss objection filed by Plaintiff (...), TIN No..... to Defendant (ZATCA) Decision regarding zakat assessment for years from 1429 to 1432 subject matter of the Case.

Second: Amend Defendant (ZATCA) Decisions against Plaintiff (...), TIN No..... regarding zakat assessments for years from 1433 to 1441 subject matter of the Case as stated in the Grounds.

This Decision was delivered in presence of the parties. The Department set Sunday, 27/06/1444 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not challenge the Decision.

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

Appellate Committee:

Appeal Committee ruled to uphold the Decision.



Key words:

Zakat - Estimate - Register-based Capitals - Revenues - Unlisted Registers

Abstract

Zakat Payer requests canceling ZATCA Decision regarding zakat assessment for 2017. Since the dispute involves Zakat Payer's objection to Defendant's procedure outlined in issuing estimate zakat assessment for 2017. Since the Department found, regarding zakat assessment, that Zakat Payer did not include additional revenues of commercial registers in its declaration, and did not provide supporting documents for its claim. Therefore, the Department dismisses Zakat Payer's objection to Defendant's Decision regarding zakat assessment.

Instruments:

- Zakat Law promulgated by Royal Decree No. (17/28/577) dated 14/03/1376 AH
- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH
- Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH
 - Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH
- Paragraph (6/A) of Article (13) of the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

Facts of the Case are summarized in that (...), holder of National ID No. (...), in his capacity as the legal Representative of Plaintiff (... Company), C.R. No. (...), under memorandum of association, filed an objection to ZATCA zakat assessment for 2017. Having presented statement of claim to Defendant, its Representative submitted an answer, stating that Defendant calculated zakat for record-based capitals amounting to SAR 5,000,000 due to Plaintiff's statement that its revenues are recorded within revenues of (... Company) for the fact that there is a contract whereby (... Company) operates or rents the register in return for SAR 1,000 for each register per month. Having taken cognizance of documents provided by Plaintiff, the objection was partially accepted, by accounting Plaintiff for registers that are unlisted based on register-based capitals to which revenues of registers were added in accordance with Article (20) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH. Thereupon, Defendant requests the Department to dismiss the Case, while maintaining its right to submit further responses and clarifications following the closing of pleadings.



On Saturday, 12/06/1443 AH, the Department held its session remotely to consider the Case, where (...), holder of National ID No. (...), appeared in his capacity Plaintiff's Attorney under POA No. (...) dated .././... AH issued from (...) Notary Public. In addition, (...), holder of National ID No. (...), appeared in his capacity as Defendant (ZATCA) Representative under Authorization No. (...) dated .././... AH issued by ZATCA Deputy Governor for Legal Affairs and Compliance. Having asked Plaintiff's Attorney about the claim of his principal, he answered by insisting on statements included in the statement of claim lodged with the General Secretariat of Tax Dispute and Violation Committees. Having confronted Defendant's Representative of the same, he answered by insisting on the statements included in Defendant's answer and requested the Department not to accept any new documents that were not provided to Defendant throughout examination and objection phase. Having asked both parties if they have other statements, they answered "No". Therefore, the Department decided to close pleadings for deliberation.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH, and 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 Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff filed the Case to abolish Defendant's Decision regarding Zakat Assessment of 2017 AD, and since this dispute is a Zakat dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Decree No. (26040) of 21/04/1441 AH, and since the Case was filed by a person with capacity, and within the period prescribed by Law, it is then accepted in form.

On Merits: Having taken cognizance of documents included in Case file, requests, defense and arguments raised by the parties, the Department found that the dispute involves Plaintiff's objection to Defendant's procedure outlined in issuing estimate zakat assessment for 2017. In addition, Plaintiff stated that the Company is managed by (... Company) Under Plaintiff's M&O Contract in return for monthly rent of SAR 1,000 for each sub-register to be deposited with Plaintiff's shareholder account. Accordingly, the due zakat is paid in (... Company) declaration. On the other hand, Defendant argued that it partially accepted Plaintiff's objection, by accounting Plaintiff for registers that are unlisted based on register-based capitals to which revenues of registers were added, and that its Decision was issued in accordance with provisions of the Implementing Regulations for the Collection of Zakat.

In accordance with Paragraph (6/A) of Article (13) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH that states: "Estimate zakat base consists of the following unless Zakat Payer's declaration shows a larger base: A. Working capital shall be determined by any available means, whether through the commercial register, company contracts and articles of association or any other supporting document. If it turns out that the actual working capital differs from the same, ZATCA shall be entitled to determine it in proportion to the volume of activity and the number of capital cycles according to industry, trade or business norms. B. The net profits realized during the year, which are estimated at a minimum rate of 15% of total revenues". In addition, Paragraph (8) states: "When determining zakat base using estimate assessment method, ZATCA collects information that enables it to calculate zakat base, which fairly reflects reality of Zakat Payer's business activity in light of circumstances and facts related to case and information available to ZATCA through



documented evidence provided by Zakat Payer, through field inspection and examination conducted by ZATCA, and through any information that ZATCA has access from other parties, such as volume of imports, contracts, labor, loans and obtained subsidies”.

Based on the foregoing, having taken cognizance of statements provided by both parties, the Department found that Plaintiff did not included additional revenues related to commercial registers in its zakat declaration, and did not provided supporting documents for its statement of claim. Therefore, the Department dismisses Plaintiff’s objection. For the aforementioned Grounds, the Department unanimously decided as follows:

Decision

Dismiss the objection of the Plaintiff.....Company TIN No..... to Defendant (ZATCA) Decision regarding zakat assessment subject matter of the Case.

This Decision was delivered in presence of the parties. The Department set Sunday, 27/06/1443 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if both parties do not file an objection.

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

Appellate Committee:

The Appellate Committee decided to uphold the Decision.



Key words:

Zakat - Estimate Assessment - Calculating Zakat Based on Estimate Method - Reported Sales - Value-Added

Abstract

Zakat Payer requests canceling ZATCA Decision regarding estimate zakat assessment for 1439. The dispute involves Defendant's procedure outlined in issuing zakat assessment for 1439. The Department found, regarding calculation of zakat based on estimate method, that Zakat Payer is among categories that are subject to the Rules of Calculating Zakat for Estimate Taxpayers, and that Defendant amended assessment based on sales reported in VAT returns. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH
 - Article 20.1 of Tax Dispute and Violation Committee Procedures issued under Royal Decree No. (26040) dated 21/04/1441
- Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH
- Articles (55) and (56) of the Law of Civil Procedure promulgated by Royal Decree No. (M/1) dated 22/01/1435 AH
 - Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH
- Paragraph (6) and Paragraph (6.B) of Article (13) of the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

The facts of this Case are summed up as follows: (...), holder of National ID No (...), filed an objection to ZATCA estimate zakat assessment for 1439. Plaintiff referred, in its statement of claim, to Defendant's procedure outlined in estimate zakat assessment for 1439, as Plaintiff stated in its statement of claim that the activity is only one commercial register and (4) workers. In addition, when filing objection, ZATCA responded with amendment twice, as if it was an error. ZATCA first amendment was in the amount of SAR 1,484, while the second was in the amount of SAR 7,647.

Having presented the statement of claim to Defendant, it responded with an answer summarized as follows: ZATCA Decision was made in accordance with provisions of Article (13) of the Implementing Regulations for the Collection of Zakat, as zakat base was calculated based on sales reported in VAT returns. Thereupon, ZATCA exercised its powers conferred according to the same, which authorizes it to account Zakat Payer based on estimate method in light of obtained information and data to which ZATCA shall have



access, according to its powers stipulated by the law, to be able to calculate zakat base that fairly reflects the reality of Zakat Payer's business activity in light of circumstances and facts related to the case and information available at ZATCA, either through documented evidence provided by Zakat Payer or by direct and continuous access to any information that has a direct relation to Zakat Payer and maintained by third party and reveals the volume of imports, contracts, labor, loans and obtained subsidies. Therefore, ZATCA insists on accuracy and correctness of its procedure and requests dismissing the Case, while maintaining ZATCA right to submit further responses and clarifications regarding Plaintiff's objection before the Committee.

On Tuesday, 19/08/1443 AH, the Department held its session remotely to consider the Case. Having called litigants, the Department found that neither Plaintiff nor its Attorney appeared despite of being duly notified. In addition, (...), holder of National ID No. (...), appeared in his capacity as Defendant (ZATCA) Representative under Authorization No. (...) dated .././... AH issued by ZATCA Deputy Governor for Legal Affairs. Having asked Defendant's Attorney about his answer, he answered by insisting on the statements included in the answer lodged with the General Secretariat of Tax Dispute and Violation Committees. Therefore, the Department decided to close pleadings for deliberation.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH, and the 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 the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to cancel ZATCA Decision regarding zakat assessment for 1439, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 documents included in Case file, requests, defense and arguments raised by parties to the Case, the Department found that the dispute involves Defendant's procedure outlined in issuing zakat assessment for 1439 in accordance with Paragraph (6) of Article (13) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH that states: "6. Estimate zakat base consists of the following unless Zakat Payer's declaration shows a larger base: A. Working capital shall be determined by any available means, whether through the commercial register, company contracts and articles of association or any other supporting document. If it turns out that the actual working capital differs from the same, ZATCA shall be entitled to determine it in proportion to the volume of activity and the number of capital cycles according to industry, trade or business norms. B. The net profits realized during the year, which are estimated at a minimum rate of 15% of total revenues, except for the following categories, the rate shall be as follows: Contractors 10.5%".

In view of the foregoing, having taken cognizance of Case documents and facts, the Department found that Plaintiff falls within the categories that are subject to the Rules of Calculating Zakat for Estimate Taxpayers. Accordingly, Defendant shall be entitled to collect information and calculate zakat for Plaintiff based on estimate method in



accordance with Paragraph (6.B) of Article (13) that stipulates estimating Plaintiff's business activity profits by (15%), which is applied for the purpose of estimating Plaintiff's business activity profits by (15%). Since there is no real information that reflects volume of Plaintiff's activity, Defendant shall be entitled to make assessment or reassessment based on estimate method if ZATCA has access to data or information that reflects reality of Plaintiff's business activity through sales reported in VAT returns. Having taken cognizance of Amendment Letter dated 26/06/1441 AH, we find that Defendant amended the assessment based on sales reported in VAT returns. Therefore, the Department dismisses Plaintiff's objection.

As for failure of Plaintiff or its Attorney to attend the session despite of being duly notified, and that the Department rendered its Decision in the Case subject matter of consideration in absentia without an excuse acceptable to the Department, the Department relied on Paragraph (1) of Article (20) of Tax Dispute and Violation Committee Procedures that states: "If a Plaintiff fails to attend any hearing after being notified of the date set for consideration of the suit without an excuse acceptable to the circuit, the circuit must decide the suit if it is ripe for judgment". In addition, the Decision rendered in this case shall be deemed as if rendered in presence of Plaintiff in accordance with Article (56) of the Law of Civil Procedure that states: "If the plaintiff fails to attend the court hearings, in accordance with Article 55 of this Law, the defendant may petition the court to rule on the merits of the case. The court shall rule on the case if it is ripe for judgment and such judgment shall be deemed as if rendered in the presence of the plaintiff". Since Plaintiff did not submit an acceptable excuse for failure to attend the hearing, and that the Department has deemed that the Case is ripe for adjudication according to Case documents. Therefore, the Department renders its Decision in the Case as if in presence of Plaintiff.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision

Accept objection filed by Plaintiff (...), holder of National ID No. (...), to Defendant (ZATCA) Decision in form and dismiss the objection on merits.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection (This judgment has become final due to expiry of objection period in accordance with Article (40) of Tax Dispute and Violation Committee Procedures).



Key words:

Zakat - Estimate Assessment - Movement in Bank Statement - Credit Sale and Purchase - Assessed Based on Estimate Method

Abstract

The Zakat Payer instituted this case requesting to cancel ZATCA's Decision regarding the zakat assessment for the year 1439. The dispute involves Plaintiff's objection to Defendant's procedure outlined in estimate assessment. The Department found, regarding estimate zakat assessment, that Zakat Payer is assessed based on estimate method, rather than accounts. In addition, Plaintiff did not submit to ZATCA its declaration for the year in question, and did not provide the financial statements approved by a chartered accountant. Therefore, Defendant accordingly exercised its right stipulated by the law with regard to accounting Zakat Payer based on estimate method. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH
- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH
- Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH
 - Implementing Regulations of Income Tax Law promulgated by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH
- Article (13), Paragraph (2) of Article (20) and Paragraph (8.B) of Article (21) of the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), holder of National ID No. (...), owner of (... Enterprise), C.R. No. (...), filed an objection to estimate zakat assessment for 1439 on the ground that the assessment is made based on exaggerated figures that do not reflect reality of its business activity. In addition, the assessment was made based on bank account movement, despite the fact that most of purchases from suppliers are on credit and are not be considered part of the capital, and bank account movement between Plaintiff, suppliers and customers in the market. Therefore, Plaintiff requests canceling assessment subject matter of the Case.

Having presented the statement of claim to Defendant, it responded with a memorandum summarized as follows: Article (12), Paragraph (1), of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH states: "Zakat Payer shall be entitled to file an objection to ZATCA assessment within sixty (60) days from the date of receiving assessment letter. In addition, the objection shall



be filed under a reasoned memorandum in writing to be submitted to the entity that notified Zakat Payer of assessment”. In addition, Article (2) of Tax Dispute and Violation Committee Procedures states: “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”. In addition, Paragraph (1) of Article (3) of the same Procedures 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 made assessment for Plaintiff on 06/11/1440 AH, while Plaintiff filed its objection before ZATCA on 03/11/1441 AH. Thereupon, by expiry of statutory period for accepting objection in form, the Decision becomes final and unappealable.

On Tuesday, 23/11/2022 AD, the Department held its session remotely to hear the Case. At that session, Plaintiff (...), holder of National ID No. (...), appeared. In addition, (...) appeared in his capacity as Defendant's Representative by virtue of Authorization No. (...). At the session, the Department opened pleadings. Having asked Plaintiff about the claim, Plaintiff answered: I object to estimate zakat assessment for 1439 dated .././... AH, as Defendant relied on account statements when making estimate assessment, which resulted in exaggerated zakat amount compared to estimate assessment for 1438 and 1440. In addition, i satisfy with the statement of claim submitted on the portal of the General Secretariat of Tax Dispute and Violation Committees and insist on arguments included therein. Having presented the same to Defendant’s Representative, he answered: Defendant requests dismissing the Case in form due to filing objection before Defendant after expiry of the statutory period, as Plaintiff was electronically notified of the assessment on .././... AH and filed an objection before Defendant only on .././... AH. In addition, i satisfy with the memorandum submitted via the portal of the General Secretariat of Tax Dispute and Violation Committees and insist on the arguments included therein. Having presented the same to Plaintiff, he answered: Regarding the assessment dated .././... AH, I have no objection thereto, and the full amount of assessment has been paid. I have attached payment notification on Alinma Bank letterheads to Case file. In addition, my objection pertains to the amended assessment dated .././... AH. Having presented the same to Defendant’s Representative, he requested an opportunity for answer. Accordingly, the Department decided to adjourn Case consideration to the session dated 03/ 01/2022 AD, 05:00 PM.

On Monday, 03/01/2022 AD, the Department held its session remotely to consider the Case. At that session, Defendant (...), whose presence and identification were previously noted, appeared. In addition, (...), whose presence and identification were previously noted, appeared. At the session, Defendant’s Representative was asked about the matters for which he was given an opportunity. Therefore, he answered: On Merits: ZATCA made assessment for Plaintiff based on a report and conducted a field inspection and examination. In addition, the Saudi Central Bank “SAMA” was addressed to request obtaining Plaintiff’s bank statements, in addition to sales reported in VAT returns, in accordance with Article (13) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. Having presented the same to Plaintiff, he answered: This is correct. I was visited by Defendant, and I provided them with bank statements. However, the assessment is exaggerated, as I primarily make credits sale and purchase. Having asked both parties if they would like to add any statements, they satisfied with the previous submissions. Therefore, the Department decided closing pleadings and adjourn the Case for consideration and deliberation.

Grounds





Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and the Implementing Regulations for Zakat Collection, issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH, as amended, and Clause (Third) of Royal Order No. (26040) dated 21/04/1441 AH issuing the Tax Disputes and Violations Committee Procedures; and

In Form: Since Plaintiff aims with its claim to cancel ZATCA Decision regarding estimated zakat assessment for 1439, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of Committee for Determination of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH. Given that 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 answers of both parties after being given an opportunity for submitting their documents, the Department found that the dispute involves Plaintiff's objection to Defendant's procedure outlined in estimate assessment, and that Plaintiff argues that the assessment is exaggerated, and it makes credit sale and purchase. On the other hand, Defendant argues that it made assessment for Plaintiff based on a report and conducted field inspection. In addition, SAMA was addressed to request Plaintiff's bank statements and sales reported in VAT returns in accordance with Article (13) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.

Paragraph (2) of Article (20), related to declarations, of the Implementing Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH states: "2. Zakat Payer shall file the declaration and attachments thereto after filling out all its fields and settle the due zakat under the declaration at the end of its fiscal year. In addition, Zakat Payer shall only delay within the limits of its accounting procedures, provided that this is no later than (120) days. Moreover, Zakat Payer shall disclose all components of its zakat base throughout declaration period. The declaration shall be deemed to be filed in the date of its receipt under an official notification issued by ZATCA or any other entity authorized to do so. Where the end of such period coincides with a weekend or public holiday, the declaration shall be accepted in the first working day after the weekend or public holiday if the declaration is filed and zakat is paid".

In addition, Paragraph (8.B) of Article (21), related to examination and assessment procedures, of the Implementing Regulations for the Collection of Zakat states: "8. ZATCA shall be entitled to make or amend assessment at any time without being bound by a specific period in the following cases:

B. If Zakat Payers fails to file its declaration".

In addition, Article (13) of the Implementing Regulations for the Collection of Zakat states:

"5. ZATCA shall be entitled to account Zakat Payers on estimate basis in order to oblige them to comply with legal requirements in the following cases:

A. If Zakat Payer fails to file its zakat declaration based on statutory books and records in the deadline.

6. Estimate zakat base consists of the following unless Zakat Payer's declaration shows a larger base:

A. Working capital shall be determined by any available means, whether through the commercial register, company contracts and articles of association or any other supporting document. If it turns out that the actual working capital differs from the same, ZATCA



shall be entitled to determine it in proportion to the volume of activity and the number of capital cycles according to industry, trade or business norms.

8. When determining zakat base on estimate basis, ZATCA shall collect information that enables it to calculate zakat base, which fairly reflects reality of Zakat Payer's business activity in light of circumstances and facts related to case and information available to ZATCA through documented evidence provided by Zakat Payer, through field inspection and examination conducted by ZATCA, and through any information that ZATCA has access from other parties, such as volume of imports, contracts, labor, loans and obtained subsidies".

Since it is found that Plaintiff is accounted on estimate basis, rather than accounts, and did not provide Defendant with its declaration for the year in question. In addition, Plaintiff did not submit the financial statements approved by a chartered accountant. Thereupon, Defendant exercised its right stipulated by the law, by accounting Plaintiff on estimate basis. Therefore, Defendant's procedure is valid and aligns with provisions of Articles (20), (21) and (13) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.

Decision

For these Grounds and after deliberation, the Department unanimously decided to: Accept the Case filed by Plaintiff (...), holder of National ID No. (...), owner of (... Enterprise), C.R No. (...), against Defendant (ZATCA) in form and dismiss it on merits. This Decision was delivered in presence of both parties. The Department set Wednesday, 02/03/2022 AD for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not appeal it.

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

(This judgment has become final due to expiry of objection period in accordance with Article (40) of Tax Dispute and Violation Committee Procedures).



Committee for Determination of Tax Violations and Disputes

Decision No. ISR-2022-78
Case No. Z-40958-2021

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

Key words:

Zakat - Estimate Assessment - Calculating Zakat Base - According to Capital Set Forth in Commercial Register - Did not Conduct any Activity

Abstract

Zakat Payer requests canceling ZATCA Decision regarding estimate zakat assessment for 1432. The dispute involves Plaintiff's objection to Defendant's procedure outlined in calculating zakat base based on capital set forth in the commercial register despite the fact that capital-related expenses were not deducted. The Department found, regarding calculation of zakat base based on capital set forth in the commercial register, that Zakat Payer is accounted on estimate basis, rather than accounts, and did not provide Defendant with its declaration for the year in question. Therefore, Defendant exercised its right stipulated by the law, by accounting Zakat Payer on estimate basis. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH
- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH
 - Implementing Regulations of Income Tax Law promulgated by Minister of Finance Resolution No. (1535) of 11/06/1425 AH
- Article (10) and Article (11) of the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), holder of National ID No. (...), filed an objection to estimate zakat assessment for 1432 to object to Defendant's procedure outlined in calculating zakat base based on capital set forth in the commercial register. In addition, the assessment included exaggerated figures that do not reflect reality of his business activity, as he joined a government job since ... AH and did not conduct any business activity following that date. Therefore, Plaintiff requests canceling Defendant's procedure subject matter of the Case.

Having presented the statement of claim to Defendant, it answered as follows: "First: Subjective Defenses: Regarding Plaintiff's objection to estimate zakat amount calculated, we inform the Committee of the following:

1. The Decision is presumed to be valid and sound, and whoever claims otherwise shall provide proof supporting his claims.



2. ZATCA state that its Decision was issued in accordance with provisions of Article (13) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH, as ZATCA calculated zakat base based capitals set forth in the commercial registers, in addition to 15% profit margin on Zakat Payer's VAT sales. Thereupon, ZATCA exercised its powers conferred according to the same, which authorizes it to account Zakat Payer based on estimate basis in light of obtained information and data to which ZATCA shall have access, according to its powers stipulated by the law, to be able to calculate zakat base that fairly reflects the reality of Zakat Payer's business activity in light of circumstances and facts related to the case and information available at ZATCA, either through documented evidence provided by Zakat Payer or by direct and continuous access to any information that has a direct relation to Zakat Payer and maintained by third party and reveals the volume of imports, contracts, labor, loans and obtained subsidies. In addition, the Committee can be provided with information that supports the same if required. Thereupon, ZATCA confirms that its Decision subject matter of the Case is based on valid legal Grounds as stated in its reasoning. In addition, Plaintiff shall prove Decision invalidity. Second: Requests: Therefore, ZATCA requests the Committee to dismiss the Case, while maintaining ZATCA right to submit further responses and clarifications regarding Zakat Payer's objection before the competent committee.

On (...), .././..., the Department held its session remotely to consider the Case, where Plaintiff, holder of National ID No. (...), appeared. In addition, (...), appeared in his capacity as Defendant's Representative under Authorization No. (...). At the session, the pleadings were opened. Having asked Plaintiff about the claim, he answered: I object to estimate zakat assessment for 1432 AH due to the fact that Defendant claimed me with zakat, as Defendant made estimate accounting despite that fact that i did not conduct business activity, and i do not have workers or licenses. In addition, i am government employee since 1435 AH, and the commercial register No. ("...") was canceled on .././... AH. Moreover, i satisfy with the statement of claim submitted via the portal of the General Secretariat of Tax Dispute and Violation Committees and insist on the arguments included therein. Having presented the same to Defendant's Representative, he answered: Defendant accounted Plaintiff according to estimate basis based on capitals only. With regard to Plaintiff's arguments, Plaintiff should cancel the commercial register and inform Defendant of the same to cancel its TIN with Defendant. I would like to confirm that ZATCA made assessment based on capital after completing a full year. In addition, i satisfy with the memorandum submitted via the portal of the General Secretariat of Tax Dispute and Violation Committees and insist on the arguments included therein. Having presented the same to Plaintiff, he answered: The capital stated in the commercial register is unreal. Having asked both parties if they would like to add any statements, they satisfied with such statements previously submitted. Accordingly, the pleadings were closed and the case was adjourned for consideration and deliberation.

Grounds

Having perused Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH and its Implementing Regulations issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH, Rules of Calculating Zakat for Estimate Taxpayers issued by Ministerial Resolution No. (852) dated 28/02/1441 AH, Income Tax Law promulgated by Royal Decree No. (M/1) of 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 Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, and the relevant Laws and regulations.



In Form: Since Plaintiff aims with its claim to cancel ZATCA Decision regarding estimate zakat assessment for 1432, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of Committee for Determination of Income Tax Violations and Disputes. Given that 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 documents included in Case file, requests, defense and arguments raised by parties to the Case, the Department found that the dispute involves Plaintiff's objection to Defendant's procedure outlined in calculating zakat base based on capital set forth in the commercial register despite the fact that the capital-related expenses were not deducted. On the other hand, Defendant argues, in its answer, that the Decision is presumed to be valid and sound, and whoever claims otherwise shall provide proof supporting his claims, and that its Decision aligns with (Third) and (Fourth) of Rules of Calculating Zakat for Estimate Taxpayers issued by H.E. Minister of Finance Resolution No. (852) dated 28/02/1441 AH. In addition, Defendant argues that it exercised its powers conferred according to the same, which authorizes it to account Zakat Payer based on estimate basis in light of obtained information and data to which ZATCA shall have access, according to its powers stipulated by the law, to be able to calculate zakat base that fairly reflects the reality of Zakat Payer's business activity in view of circumstances and facts related to the case and Plaintiff's information available at ZATCA. Since zakat base is primarily calculated based on declarations filed by Plaintiff who is required to provide supporting documents for such declarations, including financial statements approved by a chartered accountant, statutory books and records. If such supporting documents are not provided, Defendant shall be entitled to account Zakat Payer on estimate basis, by collecting information that enables it to calculate a fair zakat base, either through documented evidence, field examination carried out by Defendant, any information obtained from third parties or through all such sources collectively.

Article (11) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH states:

“The Authority may account for a Zakat Payer on deemed basis in the following cases:

1. Where the Authority will be unable to access recognized information reflecting the reality of Zakat Payer and Zakat Payer's business activity, including the keeping of inaccurate accounting books.
2. Zakat Payer has failed to comply with the requirement for the filing of Declaration within the time limit stipulated in Article 17 of this Regulation”.

In addition, Article (10) of the same Regulations states: “The Authority shall account on deemed basis for each Zakat Payer with no commercial books to reflect the reality of business activity and under no obligation to issue financial statements in accordance with applicable regulations, related Bye- Laws and rules ...”. Furthermore, (Third) of Rules of Calculating Zakat for Estimate Taxpayers issued by Ministerial Resolution No. (852) dated 28/02/1441 AH states: “The Zakat base of Zakat Payer subject to these rules shall be evaluated by identifying capital that is appropriate to the size of Zakat Payer's activity, according to the following equation: $(\text{Sales}/8) + [\text{Sales} \times 15\%]$ and not less than capital set forth in the commercial registration, required license or other documents enabling the Authority from quantifying the capital”. In addition, (Fourth) of the same rules states: “Sales set forth in Item (3) shall not be less than sales disclosed in VAT return, which is the gross sales of Zakat Payer's financial year. If the Zakat Payer does not have sales registered in VAT return, the sales shall be evaluated as per the following criteria ...”.

Since it is found that Plaintiff is accounted on estimate basis, rather than accounts, and that Plaintiff did not file its declaration to Defendant for the year in question. Therefore,



Defendant exercised its right stipulated by the law, by accounting Plaintiff on estimate basis. Thereupon, it turns out that Defendant's procedure is valid and aligns with provisions of Articles (11) and (10) of the said Implementing Regulations for the Collection of Zakat and Clauses (Third) and (Fourth) of the said Rules of Calculating Zakat for Estimate Taxpayers. This is not affected by Plaintiff's argument that the assessment was made regarding a cancelled commercial register, as the cancellation was on a date following assessment date for the year subject matter of the Case. Therefore, the Department dismisses Plaintiff's objection and upholds Defendant's procedure subject matter of the Case.

Decision

For these Grounds and after deliberation, the Department unanimously decided to: Accept the Case filed by Plaintiff (...), holder of National ID No. (...), owner of (... Enterprise), C.R No. (...), against Defendant (ZATCA) in form and dismiss it on merits. This Decision was delivered in presence of both parties and was read publicly in the session. The Department set Thursday, 17/03/2022 AD for receiving a copy of the Decision.

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

(This judgment has become final due to expiry of objection period in accordance with Article (40) of Tax Dispute and Violation Committee Procedures).



Committee for Determination of Tax Violations and Disputes

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

Decision No. IFR-2022-4236
Case No. Z-31298-2020

Key words:

Zakat - Accounts - Dividends Completed a Full Year - Dividends - Gregorian Year

Abstract

Zakat Payer requests canceling ZATCA Decision regarding zakat assessment for 2017. The dispute involves Defendant's procedure outlined in issuing zakat assessment for 2017. The Department found, regarding (Dividends Completed a Full Year) item, that zakat payment is conditional on remaining property in the possession of Plaintiff until the end of Hijri year. Accordingly, the Department decided to dismiss the case.

Instruments:

- Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH
- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH
- Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH
 - Implementing Regulations of Income Tax Law promulgated by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH
- Paragraph (8) of Clause (First) of Article (4) of the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

The facts of this Case are summed up as follows: (...), holder of National ID No. (...), in his capacity as the Attorney of Plaintiff (... Company), C.R. No. (...), under POA No. (...), filed an objection to ZATCA zakat assessment for 2017. Plaintiff's objection outlines the item: Dividends Completed a Full Year. Plaintiff objected to Defendant's procedure outlined in adding dividends to zakat base for 2017 on the ground of completing a full year. Plaintiff stated, in its statement of claim, that Article (15) of the Implementing Regulations for the Collection of Zakat stipulates that Zakat Payer shall be entitled to use the Gregorian fiscal year to complete a full year, as dividends shall be added to zakat base due to the fact that such dividends were distributed before the year-end.

Having presented the statement of claim to Defendant, it responded with an answer summarized as follows: Defendant added the amount of SAR 1,200,00 as profits that were distributed following the completeness of Hijri year. Having taken cognizance of examination documents, the Department found that each shareholder has

SAR 600,000 that were distributed on 31/12/2017 AD, i.e. following the completeness of Hijri year, in accordance with Paragraph (11) of Clause (First) of Article (4). Accordingly, ZATCA added the dividends that completed a full Hijri year to zakat base for the year in question, which aligns with Sharia and statutory requirement, as jurists stipulate that a full



twelve Hijri months must pass on the wealth subject to Zakat, as determined by the Council of Senior Scholars in the Kingdom by its Decision No. (222) dated 29/06/1426 AH. This aligns with Royal Decree No. (...)/... AH, as well as Paragraph (1) of Article (15) of the Implementing Regulations for the Collection of Zakat. This has been consistently applied by ZATCA to all Zakat Payers without exception, and it has also been established as per the rulings of Appellate Committee. Furthermore, ZATCA Letter No. (1/3314) dated 22/5/1419 AH stated that: “We inform you that the lunar (Hijri) year should be applied in case there are elements and items in the submitted accounts based on Gregorian calendar, and that such elements and items completed a full lunar year”. In addition, ZATCA adoption of lunar year for Zakat Payers who prepare their statutory accounts based on the Gregorian calendar does not contradict the principle of zakat stability because accepting such accounts from Sharia perspective is merely an exception from the original rule, aimed at facilitating matters for Zakat Payer. Therefore, ZATCA has added such amounts to zakat base and subjected them to zakat on the Grounds that these amounts have completed a full lunar year while in the possession of Plaintiff. Therefore, ZATCA insists on accuracy and correctness of its procedure and requests dismissing the Case, while maintaining ZATCA right to submit further responses and clarifications regarding Plaintiff’s objection before the Committee.

On Wednesday, 06/08/1443 AH, the Department held its session remotely to consider the Case. Having called the parties, the Department found that Plaintiff’s Attorney did not appear despite of being duly notified. In addition, (...) appeared Mr., holder of National ID No., appeared in his capacity as Defendant’s (ZATCA) Representative, by virtue of Authorization No. dated .../.../..., issued by Deputy Governor for Legal Affairs. Having asked the Defendant’s Representative about his response to the Plaintiff’s claims, he replied that he maintains the Defendant’s statements contained in its plea submitted to the General Secretariat. Having asked the Defendant’s Representative if he had any other statements, he replied “no”. Therefore, the Department decided to close pleadings for deliberation.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, and 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 Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to cancel ZATCA Decision regarding zakat assessment for 2017, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 documents included in Case file, requests, defense and arguments raised by the parties, the Department found that the dispute involves the claim that ZATCA issued zakat assessment for 2017. In addition, Plaintiff objects to the item: Dividends Completed a Full Year.

In accordance with Paragraph (8) of Clause (First) of Article (4) the Implementing Regulations for the Collection of Zakat, and since Council of Senior Scholars Fatwa No. (2/1043) dated 20/08/1428 AH states: “Zakat is calculated based on the lunar (Hijri) months because Sharia ties the obligation of Zakat to the passage of a full year. The term



“year” is a Sharia-based concept, and according to Islamic jurisprudence, it is interpreted as twelve lunar months. Allah Almighty says: “Verily, the number of months with Allah is twelve months (in a year), so was it ordained by Allah on the Day when He created the heavens and the earth.” In addition, ZATCA Circular No. (6741/16/1434) dated 02/11/1434 AH states: “ZATCA shall continue in collecting zakat on zakatable wealth that completed a full lunar year and transacted over before the end of Gregorian year as instructed by the Minister of Finance”.

As such, since zakat payment is conditional on the wealth in the possession of Plaintiff until the end of lunar year, and that the law gives Zakat Payers the option to choose its fiscal year based on Gregorian year is to facilitate their affairs in book-keeping, and shall not impact their obligation to pay zakat when its Sharia requirement is met. Having taken cognizance of Case file, the Department found that the dispute involves Plaintiff’s claim to deduct dividends distributed throughout the year, considering that the fiscal year approved for preparing its financial statements is the Gregorian year, rather than the Hijri year. Therefore, the Department dismisses Plaintiff’s objection.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision

Accept objection filed by Plaintiff (... Company), C.R. No. (...), to Defendant (ZATCA) Decision regarding zakat assessment subject matter of the Case in form and dismiss it on merits.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

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

Appellate Committee:

The Appellate Committee decided to uphold the Decision.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IFR-2022-3105
Case No. Z-22950-2020

Key words:

Zakat - Accounts - Cost of Goods Sold (COGS) - Creditors and Other Credit Balances Completed a Full Year

Abstract

Zakat Payer requests canceling ZATCA Decision regarding zakat assessment for 2018. The dispute involves Zakat Payer's objection to Defendant's procedure regarding (COGS) item and (Creditors and Other Credit Balances Completed a Full Year) item. The Department found, regarding (COGS) item, that Zakat Payer attached: (Customs declaration for 2018, and since this document is insufficient, and since Zakat Payer did not provide: (A reconciliation statement that elaborates the claimed variance and a statement generated from the accounting system. Regarding (Creditors and Other Credit Balances Completed a Full Year) item, Zakat Payer attached: (Financial Statements for 2018). Since this document is insufficient and cannot be relied, as Zakat Payer did not provide supporting documents that prove completing a full year. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- Paragraph (1) of Article (20) of [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(17/28/577\) dated 14/03/1376 AH](#)
- Articles (55) and (56) of [the Law of Civil Procedure promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH](#)
- Paragraph (5) of Clause (First) of Article (4), Paragraph (1.A) of Article (5), Paragraph (2) of Article (6) and Paragraph (3) of Article (20) of [Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH](#)

Facts:

The facts of this Case are summed up as follows: (...), holder of National ID No. (...), in his capacity as the legal Representative of Plaintiff (... Company), C.R No. (...), filed an objection to ZATCA zakat assessment for 2018. In addition, Plaintiff's objection is limited to three items: Item First COGS. Plaintiff objects to Defendant's procedure outlined in adding COGS to the net profit for 2018. Plaintiff stated, in the statement of claim, that it is declared, in (COGS) item, adding external purchases (imports) in the amount of SAR 1,250,250, while the external purchases amounted to SAR 1,220,345. In addition, customs duties amounting to SAR 63,302 and shipping fees amounting to SAR 24,408 were added. Furthermore, local purchases amounting to SAR 21,261,381 were listed, while the local purchases amounted to SAR 21,203,577. Moreover, the ending inventory amounting to



SAR 19,292,576 was listed, while the ending inventory amounted to SAR 3,613,653. Thereupon, Plaintiff requests derecognizing variance in COGS from the net profit. Item Second: Creditors and Other Credit Balances Completed a Full year. Plaintiff objects to Defendant's procedure outlined in adding (Creditors and Other Credit Balances) item to zakat base in the amount of SAR 2,272,121. Plaintiff stated, in the statement of claim, that it is declared in (Additions) item adding (Creditors) item. In addition, Plaintiff elaborates that this item is a debt and is not added to zakat base. Thereupon, Plaintiff requests derecognizing (Creditors and Other Credit Balances) item from zakat base.

Having presented the statement of claim to Defendant, it answered as follows: COGS. Having taken cognizance of ZATCA assessment for 2018, the Department found that the item did not affect calculating elements of net result or components of zakat base. In addition, Plaintiff elaborates that the net book profit amounting to SAR 512,168 matches the financial statements, and that the amendments to declarations is merely statistical information that does not affect assessment items. Therefore, ZATCA does not see any dispute in this regard. As for Item Second, Creditors and Other Credit Balances: ZATCA has added (Creditors and Other Credit Balances) item to zakat base components in the amount of SAR 2,272,121 based on information provided by Plaintiff. In addition, Defendant elaborates that the credit balances added is due to completing a full year in accordance with Article (4), Clause (First/5) of the Implementing Regulations for the Collection of Zakat. Thereupon, ZATCA insists on accuracy of its procedure. ZATCA the Defendant concluded its plea moving to dismiss the case, while reserving its right to submit further responses and clarifications to the Plaintiff's objection before the Committee.

On Sunday, 29/05/1443 AH, the Department held its session remotely to consider the Case. Having called the litigants, the Department found that Plaintiff's Attorney did not appear despite of being duly notified. In addition, (...) appeared Mr., holder of National ID No., appeared in his capacity as Defendant's (ZATCA) Representative, by virtue of Authorization No. dated .../.../..., issued by Deputy Governor for Legal Affairs. dated/.../... Having asked Defendant's Representative about his answer to the claim, he replied that he insists on the answer lodged with the General Secretariat of Tax Dispute and Violation Committees. Having asked Defendant's Representative if he would like to add any statements, he replied "no". Therefore, the Department decided to close pleadings for deliberation.

Grounds

Having perused Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH and its Implementing Regulations issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH as amended, 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 Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to cancel ZATCA Decision regarding zakat assessment for 2018, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of Committee for Determination of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH. Given that 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 documents included in Case file, requests, defense and arguments raised by the parties, the Department found that the dispute involves



Defendant's procedure outlined in issuing zakat assessment for 2018. In addition, Plaintiff objects to three items:

Item First COGS:

Plaintiff objects to Defendant's procedure outlined in adding COGS to net profit for 2018. Defendant argued that the item did not affect calculating elements of net result or zakat base components.

In accordance with Paragraph (1.A) of Article (5) of the Implementing Regulations for the Collection of Zakat issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH, concerning deductible expenses, that stipulates: "Expenses ordinary and necessary for an entity to engage in business activity, whether paid or due, shall be deducted to determine the net result of the activity, subject to meeting the following criteria: a. Expenses should be actual expenses as supported by relevant documents and other evidential matter to enable the Authority to verify the accuracy of expenses, even if related to prior years". Paragraph (2) of Article (6) of the same Regulations related to deductible expenses states: "Expenses that the Zakat Payer fails to prove by supporting documents or other evidential matter acceptable to the Authority." and in accordance with Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH that states: "The burden of proving validity of the items mentioned in Zakat Payer's declaration and any other data shall fall on Zakat Payer. In the event that Zakat Payer is unable to prove validity of the items mentioned in his declaration, ZATCA may not approve the item whose validity is not proven by Zakat Payer or make an estimate assessment according to its discretion in light of circumstances and facts related to the Case and information available therewith". As such, since COGS is considered deductible expenses if it is proven to be actual expenses based on supporting documents. Since the dispute regarding this item is document-based. Since Plaintiff elaborated that the variance is external purchases that include customs duties, shipping fees, local purchase variance and ending inventory variance. Having taken cognizance of documents included in Case file, the Department found that Plaintiff attached: (Customs declaration for 2018, and since this document is insufficient, and since Plaintiff did not provide: (A reconciliation statement that elaborates the claimed variance - a statement extracted from the accounting system whereby the accuracy of COGS equation is verified). Therefore, the Department dismisses Plaintiff's objection.

Item Second: Creditors and Other Credit Balances Completed a Full Year:

Plaintiff objects to Defendant's procedure outlined in adding (Creditors and Other Credit Balances) item to zakat base in the amount of SAR 2,272,121. On the other hand, Defendant argued that it added (Creditors and Other Credit Balances) item to zakat base components in the amount of SAR 2,272,121 based on information provided by Plaintiff.

In accordance with Paragraph (5) of Clause (First) of Article (4) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH that states: "The Zakat base shall consist of the Zakat Payer's assessable funds, including: 5. Government and commercial loans, along with other equivalent financing sources, such as creditors, notes payable and overdraft owed by Zakat Payer as follows: A. remained in cash and had a year passed on it. B. were used to finance acquisition assets. C. The portion used for trading assets and for which a full year has passed." and in accordance with Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 07/07/1440 AH that states: "The burden of proving validity of the items mentioned in Zakat Payer's declaration and any other data shall fall on Zakat Payer. In the event that Zakat Payer is unable to prove validity of the items mentioned in his declaration, ZATCA may not approve the item whose validity is not proven by Zakat Payer or make an estimate



assessment according to its discretion in light of circumstances and facts related to the Case and information available therewith”.

As such, since (Creditors and Other Credit Balances) item is considered one of zakat base components, provided completing a full year or being used in financing assets deducted from zakat base. Since the dispute regarding this item is document-based. Having taken cognizance of documents included in Case file, the Department found that Plaintiff attached: (Financial Statements for 2018). Since this document is insufficient and cannot be relied, as Plaintiff did not provide supporting documents that prove completing a full year, such as: (A statement generated from the accounting system, which elaborates that the opening balances were paid during the year, or that closing balances were formed throughout the year - a sample of payment receipts confirming that Zakat Payer is discharged from such funds). Therefore, the Department dismisses Plaintiff's objection. As for failure of Plaintiff or its Attorney to attend the hearing despite of being duly notified and Department's Decision in Case subject matter of consideration in absentia without an excuse acceptable to the Department, the Department relied on Paragraph (1) of Article (20) of Tax Dispute and Violation Committee Procedures that states: "If a Plaintiff fails to attend any hearing after being notified of the date set for consideration of the suit without an excuse acceptable to the circuit, the circuit must decide the suit if it is ripe for judgment". In addition, the Decision rendered in this case shall be deemed as if rendered in presence of Plaintiff in accordance with Article (56) of the Law of Civil Procedure that states: "If the plaintiff fails to attend the court hearings, in accordance with Article 55 of this Law, the defendant may petition the court to rule on the merits of the case. The court shall rule on the case if it is ripe for judgment and such judgment shall be deemed as if rendered in the presence of the plaintiff". Since Plaintiff did not submit an acceptable excuse for failure to attend the hearing, and that the Department has deemed that the Case is ripe for adjudication according to Case documents. Therefore, the Department renders its Decision in the Case as if in presence of Plaintiff.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision

Accept objection filed by Plaintiff (... Company), C.R. No. (...), to Defendant (ZATCA) Decision in form and dismiss the objection on merits.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

(This judgment has become final due to expiry of objection period in accordance with Article (40) of Tax Dispute and Violation Committee Procedures).



Committee for Determination of Tax Violations and Disputes

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

Decision No. IFR-2022-345
Case No. Z-30684-2020

Key words:

Zakat - Accounts - Current Account of Shareholders and Related Parties - Remunerations and Incentives - Commissions, Gratuities and Gifts - Currency Variances - Bad Debts - End-of-Service Provision - Price Decline Provision - Material Error in Deducting Paid Receipts

Abstract

Zakat Payer requests canceling ZATCA Decision regarding zakat assessment for years from 2013 to 2016. The dispute involves Defendant's procedures outlined in issuing zakat assessment for years from 2013 to 2016. Since the dispute involves Zakat Payer's objection to Defendant's procedure regarding (Remunerations and Incentives) item. Since Defendant added remunerations and incentives to zakat base. Regarding (Commissions, Gratuities and Gifts) item, since Defendant did not deduct (Commissions) item and (Gratuities and Gifts) item from zakat base. Regarding (Bad Debts) item, since Defendant did not deduct bad debts from zakat base. Regarding (Price Decline Provision) item, since Defendant did not deduct price decline provision from zakat base. Since the Department found: Regarding (Current Account of Shareholders and Related Parties) item, (Remunerations and Incentives) item, (Currency Variance) item, (End-of-Service Provision) item and (Material Error in Payment Receipts) item, that the dispute is resolved between the parties when Defendant accepted Zakat Payer's requests. Regarding (Commissions, Gratuities and Gifts) item, Zakat Payer did not provide documents that prove paying commissions to agents. Regarding (Bad Debts) item, Zakat Payer did not provide documents proving that the debt was written off. Regarding (Price Decline Provision) item, Zakat Payer did not provide provision movement. Therefore, the Department overturns Defendant's Decision regarding (Bonuses and Incentives) item, dismiss Zakat Payer's objection regarding the remaining items and establish resolution of other matters subject matter of the dispute.

Instruments:

- [Zakat Law promulgated by Royal Order No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- Article (70) of the [Law of Civil Procedure promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Resolution No. \(1535\) dated 11/06/1425 AH](#)
- Paragraph (A.1), Paragraph (3) and Paragraph (First/9) of Article (5) [the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH](#)



- Paragraph (1) of Article (70) of [the Implementing Regulations of the Law of Civil Procedure issued by Minister of Justice Resolution No. \(39933\) dated 19/05/1435 AH](#)

Facts:

The facts of this case are summed up as follows: Mr....., holder of National ID No. (...), in his capacity as the legal Representative of Plaintiff (... Company), C.R. No. (...), under memorandum of association, filed an objection to ZATCA zakat assessment for years from 2013 to 2016.

Having presented the statement of claim to Defendant, Defendant answered requesting the Department to dismiss the Case in form due to expiry of statutory period for filing grievance before Primary Committee according to Article (3) of Tax Dispute Violation Committee Procedures issued by Royal Decree No. (26040) dated 21/04/1441 AH. On Merits: Regarding objection to (Current Account of Shareholders for 2013, 2015 and 2016 and Related Parties for 2013) item: Plaintiff's objection was accepted, while adopting opening balance or closing balance, whichever is less. Regarding objection to (Remunerations and Incentives) item: Defendant accepted Plaintiff's objection for 2015 and 2016, as the Department found that Plaintiff approved Remuneration Regulations in 2015. Regarding: (Commissions, Gratuities and Gifts) item: Defendant insists on validity of its procedure due to Plaintiff's failure to provide supporting documents in accordance with Article (20) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH. Regarding objection to Currency Variances for 2013: Plaintiff's objection was accepted. Regarding objection to (Bad Debts for 2015 and 2016) item: Defendant insists on validity of its procedure due to failure to submit a certificate from a certified accountant confirming that debts were written off in accordance with Article (9) of the Implementing Regulations for the Collection of Zakat. Regarding (End-of-Service Provision for 2015) item: Plaintiff's objection was accepted. As for objection to (Price Decline Provision) item: Defendant insists on validity of its procedure due to the fact that the balances have completed a full year in accordance with Article (6) of the Implementing Regulations for the Collection of Zakat. Regarding objection to (Material Error in Deducting Paid Receipts) item: Defendant made payment regarding Hijri years corresponding to Gregorian years. Accordingly, tax returns were amended and sent to Plaintiff. Thereupon, Defendant requests dismissing the Case, while maintaining Defendant's right to submit further responses and clarifications until closing of pleadings.

On Tuesday, 29/06/1443 AH, the Department held its session remotely to consider the Case, where (...), holder of National ID No. (...), appeared in his capacity Plaintiff's Attorney under POA No. (...) dated .././... issued from (...) Notary Public. In addition, (...), holder of National ID No. (...), appeared in his capacity as Defendant (ZATCA) Representative under Authorization No. (...) dated .././... issued by ZATCA Deputy Governor for Legal Affairs. Having asked Plaintiff's Attorney about the claim of his principal, he answered by insisting on statements included in the statement of claim lodged with the General Secretariat of Tax Dispute and Violation Committees. Having referred to the Defendant's Representative for its reply, she invoked the statements provided by the Defendant in its plea requesting that the Department does not accept further documents that were not submitted to the Defendant during the inspection and objection stage. Having asked both parties if they had other statements, they answered "no". Therefore, the Department decided to close pleadings for deliberation.

Grounds



Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH, and 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 Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: The Plaintiff filed this case moving to cancel ZATCA's Decision regarding the zakat assessment for the years from 2013 to 2016. Since this dispute is a zakat dispute, it then falls within the jurisdiction of the Committee for Resolution of Excise Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a person with capacity, and within the period prescribed by law, it is therefore accepted in form.

On Merits: Having taken cognizance of documents included in Case file, requests, defense and arguments raised by the parties, the Department found that the dispute involves the fact that ZATCA issued zakat assessment for years from 2013 to 2016. In addition, Plaintiff objects to eight items as follows:

First: (Current Account of Shareholders for 2013, 2015 and 2016 and Related Parties for 2013) item:

In accordance with Article (70) of the Law of Civil Procedure promulgated by Royal Decree No. (M/1) dated 22/01/1435 AH that states: "Litigants may, at any stage of the case, ask the court to enter agreed-upon acknowledgment, settlement, or the like in the case record, and the court shall issue a deed to that effect". In addition, Paragraph (1) of Article (70) of the Implementing Regulations of the Law of Civil Procedure issued by the Minister of Justice Resolution No. (39933) dated 19/05/1435 states: "If an agreement is reached prior to entering the case, the text of the case and the answer shall be entered prior to entering such agreement, provided that the original case falls within the jurisdiction of the circuit, even if the text of the agreement falls within the jurisdiction of another court or circuit and the object of the case or portion thereof is agreed upon". Based on the foregoing, having taken cognizance of answer submitted by Defendant, the Department found that the dispute between the parties is resolved when Defendant accepted Plaintiff's requests.

Second: (Remunerations and Incentives) item:

The dispute involves Plaintiff's objection to Defendant's procedure outlined in adding remuneration and incentive expense to zakat base, stating that Plaintiff shall be entitled to release its employees' remunerations and gratuities as agreed in employment contract as is customary in the companies practicing wholesale and retail activity that there are remunerations and incentives for activating sales that outline expense necessary for practicing activity and integral part of wage. On the other hand, Defendant stated that it accepted Plaintiff's objection regarding this item for 2015 and 2016 and dismissed it for 2013 and 2014.

In accordance with Paragraph (1) of Article (5) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH that states: "The following expenses can be deducted to determine the net result of activity: 1. Expenses ordinary and necessary for an entity to engage in business activity, subject to meeting the following criteria: a. Expenses should be actual expenses as supported by relevant documents and other evidential matter to enable the Authority to verify the accuracy of expenses, even if related to prior years. b. Expenses should be related to Zakat Payer's business activity rather than personal expenses or other than Zakat Payer's own activities. c. Expenses shall not be of capital nature. Where a capital expenditure is included in the expenses such expenditure shall be adjusted against the result of activity,



added to fixed assets and accordingly depreciated as applicable". In addition, Article (70) of the Law of Civil Procedure promulgated by Royal Decree No. (M/1) dated 22/01/1435 AH states: "Litigants may, at any stage of the case, ask the court to enter agreed-upon acknowledgement, settlement, or the like in the case record, and the court shall issue a deed to that effect."

As such, having taken cognizance of the answer submitted by Defendant for 2015 and 2016, the Department found that the dispute between the parties was resolved when Defendant accepted Plaintiff's requests for 2015 and 2016. As for 2013 and 2014: Since the existence of such remunerations and their requirement to be based on procedures stipulated by Labor Law are irrelevant when calculating zakat transaction, whether the amounts are included in Zakat Payer's zakat base or not. Since these regulatory procedures are intended for another purpose, aimed at maintaining rights of enterprise's employees. In addition, the Department found that the core of dispute is not document-based, but rather involves Defendant's belief of necessity of having a work organization regulation. Therefore, the Department cancels Defendant's Decision for 2013 and 2014.

Third: (Commissions, Gratuities and Gifts for years from 2013 to 2016) item:

The dispute involves Plaintiff's objection to Defendant's procedure outlined in not deducting (Commissions) item and (Gratuities and Gifts) item from zakat base, stating that such two items outline actual expenses necessary for engaging in business activity, as the nature of business activity require granting commissions and expending on some gift and gratuity items for sale employees to reach target sale volume. On the other hand, Defendant argued that its procedure was issued in accordance with provisions of the Implementing Regulations for the Collection of Zakat due to Plaintiff's failure to provide the necessary supporting documents.

In accordance with Paragraph (A.1) of Article (5) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH that states: "Expenses ordinary and necessary for an entity to engage in business activity, whether paid or due, shall be deducted to determine the net result of the activity, subject to meeting the following criteria: a. Expenses should be actual expenses as supported by relevant documents and other evidential matter to enable the Authority to verify the accuracy of expenses, even if related to prior years". In addition, Paragraph (3) of Article (20) of the same Regulations states: "The zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the zakat payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it".

Based on the foregoing, having taken cognizance of documents submitted by both parties, the Department found that such expenses are deductible if proven to be actual expenses supported by supporting documents regarding commissions for years from 2013 to 2016. Since Plaintiff provided a statement of commissions released to agents in (Excel) format and submitted a sample of contracts for 2006 and 2007 wherein stated the commissions, while failing to provide supporting documents for paying commissions to agents. Therefore, the Department dismisses Plaintiff's objection. As for gratuities and gifts for years from 2013 to 2016: Since Plaintiff did not provide evidence that the expenses outline actual expenses related to engaging in business activity. Therefore, the Department dismisses Plaintiff's objection.

Fourth: (Currency Variances for 2013) item:

In accordance with Article (70) of the Law of Civil Procedure promulgated by Royal Decree No. (M/1) dated 22/01/1435 AH that states: "Litigants may, at any stage of the case, ask the court to enter agreed-upon acknowledgment, settlement, or the like in the case record, and the court shall issue a deed to that effect". In addition, Paragraph (1) of



Article (70) of the Implementing Regulations of the Law of Civil Procedure issued by the Minister of Justice Resolution No. (39933) dated 19/05/1435 states: “If an agreement is reached prior to entering the case, the text of the case and the answer shall be entered prior to entering such agreement, provided that the original case falls within the jurisdiction of the circuit, even if the text of the agreement falls within the jurisdiction of another court or circuit and the object of the case or portion thereof is agreed upon”. Based on the foregoing, having taken cognizance of answer submitted by Defendant, the Department found that the dispute between the parties is resolved when Defendant accepted Plaintiff’s requests.

Fifth (Bad Debts for 2015 and 2016) item:

The dispute involves Plaintiff’s objection to Defendant’s procedure outlined in not deducting bad debts from zakat base, stating that such debts were previously declared in the financial statements approved by the auditor. In addition, Plaintiff added that such debts are related to its main business activity. On the other hand, Defendant argued that its procedure was issued in accordance with provisions of the Implementing Regulations for the Collection of Zakat due to Plaintiff’s failure to provide the necessary supporting documents.

In accordance with Paragraph (3) of Article (5) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH that states: “Bad debt shall be considered among deductible expenses subject to the following conditions: a. Debts should have been previously declared within revenues in the year the revenue was generated. b. Debts shall be the result of carrying out activities. c. The Zakat Payer shall provide a certificate from a certified public accountant licensed to operate in the Kingdom, confirming that the debts are written-off by resolution of the authorized person. d. The debts shall not be payable by bodies associated with the Zakat Payer. e. The Zakat Payer shall report the debts written off as revenue where such debts are recovered”. In addition, Paragraph (3) of Article (20) of the same Regulations states: "The zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the zakat payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it".

As such, having taken cognizance of Case file, the Department found that the dispute is document-based, as Plaintiff did not provide a certificate from a certified accountant, confirming that the debts were written off from the books or payable by bodies associated with Plaintiff. In addition, Plaintiff did not provide evidence that such debts cannot be collected, such as a judgment proving insolvency or bankruptcy. Therefore, the Department dismisses Plaintiff’s objection.

Sixth: (End-of-Service Provision for 2015) item:

In accordance with Article (70) of the Law of Civil Procedure promulgated by Royal Decree No. (M/1) dated 22/01/1435 AH that states: “Litigants may, at any stage of the case, ask the court to enter agreed-upon acknowledgment, settlement, or the like in the case record, and the court shall issue a deed to that effect”. In addition, Paragraph (1) of Article (70) of the Implementing Regulations of the Law of Civil Procedure issued by the Minister of Justice Resolution No. (39933) dated 19/05/1435 states: “If an agreement is reached prior to entering the case, the text of the case and the answer shall be entered prior to entering such agreement, provided that the original case falls within the jurisdiction of the circuit, even if the text of the agreement falls within the jurisdiction of another court or circuit and the object of the case or portion thereof is agreed upon”. Based on the foregoing, having taken cognizance of answer submitted by Defendant, the Department



found that the dispute between the parties is resolved when Defendant accepted Plaintiff's requests.

Seventh: (Price Decline Provision for years from 2013 to 2016) item:

The dispute involves Plaintiff's objection to Defendant's procedure outlined in not deducting price decline provision from zakat base, stating that the item outlines a loss of inventory valuation, as its policy set forth in the balance sheet approved by a certified accountant outlines valuating inventory based on cost or market price, whichever is less. On the other hand, Defendant argued that its procedure was issued in accordance with provisions of the Implementing Regulations for the Collection of Zakat due to completing a full year.

In accordance with Paragraph (First/9) of Article (5) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH that states: "The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 9. Provisions of year beginning (except provisions of doubtful debts for banks) after deducting the used provisions throughout the year". In addition, Paragraph (3) of Article (20) of the same Regulations states: "The zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the zakat payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it".

Based on the foregoing, having taken cognizance of Case file, the Department found that Plaintiff requests deducting inventory price decline provision. Since Plaintiff did not provide movement of provisions through which the amount of formed provision can be verified. Since the dispute regarding this item involves the claim that the provisions may not be deducted due to the fact that they are non-deductible expenses. Therefore, the Department dismisses Plaintiff's objection.

Eighth: (Material Error in Deducting Paid Receipts) item:

In accordance with Article (70) of the Law of Civil Procedure promulgated by Royal Decree No. (M/1) dated 22/01/1435 AH that states: "Litigants may, at any stage of the case, ask the court to enter agreed-upon acknowledgment, settlement, or the like in the case record, and the court shall issue a deed to that effect". In addition, Paragraph (1) of Article (70) of the Implementing Regulations of the Law of Civil Procedure issued by the Minister of Justice Resolution No. (39933) dated 19/05/1435 states: "If an agreement is reached prior to entering the case, the text of the case and the answer shall be entered prior to entering such agreement, provided that the original case falls within the jurisdiction of the circuit, even if the text of the agreement falls within the jurisdiction of another court or circuit and the object of the case or portion thereof is agreed upon". Based on the foregoing, having taken cognizance of answer submitted by Defendant, the Department found that the dispute between the parties is resolved when Defendant accepted Plaintiff's requests.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision

First: Cancel Defendant (ZATCA) Decision against Plaintiff (...), TIN No..... regarding (Remunerations and Incentives for 2013 and 2014) item subject matter of the Case.

Second: Dismiss the objection of the Plaintiff.....Company TIN No..... to Defendant (ZATCA) Decision regarding (Commissions, Gratuities and Gifts for years from 2013 to 2016) item subject matter of the Case.

Third: Dismiss the objection of the Plaintiff.....Company TIN No..... to Defendant (ZATCA) Decision regarding (Price Decline Provision for years from 2013 to 2016) item subject matter of the Case.



Fourth: Dismiss the objection of the Plaintiff.....Company TIN No..... to Defendant (ZATCA) Decision regarding (Bad Debts for 2015 and 2016) item subject matter of the Case.

Fifth: Establish resolution of other disputes raised by Plaintiff (... Company), TIN No..... with Defendant (ZATCA) regarding items subject matter of the Case when Defendant accepted Plaintiff's requests in this regard.

This Decision was delivered in presence of the parties. The Department set Sunday, 12/7/1444 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not challenge the Decision.

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

(This judgment has become final due to expiry of objection period in accordance with Article (40) of Tax Dispute and Violation Committee Procedures).



Committee for Determination of Tax Violations and Disputes

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

Decision No. IFR-2022-4568

Case No. Z-26792-2020

Key words:

Zakat - Accounts - Owner's Current Account - Financing - Completed a Full Year - Retained Earnings - Movement in Financial Statements

Abstract

The Zakat Payer instituted this case requesting to cancel ZATCA's Decision regarding the zakat assessment for the year 2018. Since the dispute involves Defendant's procedure outlined in issuing zakat assessment for 2018. Since the Department found, regarding Defendant's procedure outlined in issuing zakat assessment for 2018, that Defendant did not challenge matching movement in the financial statements. Therefore, the Department dismisses Zakat Payer's objection.

Instruments:

- [Zakat Law promulgated by Royal Order No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- Paragraph (First/5) of Article (4) of [Implementing Regulations for the Collection of Zakat issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH.](#)
- [Implementing Regulations of Income Tax Law promulgated by Minister of Finance Resolution No. \(1535\) dated 11/6/1425 AH](#)

Facts:

The facts of this Case are summed up as follows: (...), holder of National ID No. (...), filed an objection to ZATCA zakat assessment for 2018. Plaintiff objects to Defendant's procedure outlined in: Owner's Current Account for 2018: Plaintiff's stance is outlined that the opening balance and previous year's profits were fully withdrawn, meaning there are no balances from the previous year that have completed a full year to be subject to zakat. The basis for determining zakat base is the balances that have remained for a full year. Below is the analysis of movement in owner's current account: Statement Amount Balance of Owner's Current Account of Year Beginning 2,166,521 Balance of Retained Earnings from Prior Years 2,919,857 Owner's Withdrawals throughout the year (11,689,717).

Having presented the statement of claim to Defendant, Defendant answered that item's balance was added to zakat base in the amount of SAR 2,166,521, by adding (Owner's Current Account) item in the amount of SAR 2,166,521 due to the fact that it is included in zakat base components. In addition, the opening balance or closing balance, whichever is less, shall be adopted. Moreover, ZATCA requests the Honorable Department to dismiss



the Case and uphold ZATCA procedure subject matter of the Case, while maintaining ZATCA right to provide further responses and clarifications until closing of pleadings.

On (...), .. /.../..., the Department held its session remotely to consider the Case. Having called the litigants, the Department found that (...), holder of National ID No (...), appeared in his capacity as Plaintiff's Attorney under POA No. (...). In addition, (...) appeared Mr., holder of National ID No., appeared in his capacity as Defendant's (ZATCA) Representative, by virtue of Authorization No. dated .../.../..., issued by Deputy Governor for Legal Affairs. Having asked Plaintiff's Attorney about the claim, he gave answers that do not differ from the statements included in the statement of claims lodged with the General Secretariat of Tax Dispute and Violation Committees. Having asked Defendant's Representative regarding his reply, he maintained his answers previously contained in his Reply submitted to General Secretariat of Tax Committees. Having asked both parties to the Case if they would like to add any statements or documents, they answered "no". Therefore, the Department decided to close pleadings for deliberation.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (2082) of 01/06/1438 AH, and 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 the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to cancel ZATCA Decision regarding zakat assessment for 2018, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 documents included in Case file, requests, defense and arguments raised by parties to the Case, the Department found that the dispute involves Defendant's procedure outlined in issuing zakat assessment for 2018 in accordance with Paragraph (First/5) of Article (4) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH that states: "The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: ... 5. Government and commercial loans and similar other sources of financing such as creditors, payment papers, and overdraft accounts owed by the Zakat payer which: A. remained in cash and had a year passed on it. B. were used to finance acquisition assets. C. were used in trade assets and had a year passed on it".

Based on the foregoing, since owner's current account is considered one of the financing sources and handled as equity in terms of zakat calculation. Accordingly, the amounts that completed a full year shall be added to zakat base. Having taken cognizance of documents included in Case file, the Department found that Plaintiff attached the detailed movement of the account. Since the Department found that the balance of retained earnings was closed in owner's current account in the amount of SAR 2,919,857 and that the opening balance of owner's current account is amounting to SAR 2,166,521. In addition, there are withdrawals by owner amounting to SAR 11,689,717. Moreover, the current account was financed in the amount of SAR 9,001,111, and the closing balance was financed in the amount of SAR 2,397,772. Since Defendant did not challenge matching of the movement in the financial statements. Therefore, the Department overturns Defendant's Decision.



For the aforementioned Grounds, the Department unanimously decided as follows:

Decision

Accept objection filed by Plaintiff (...), holder of National ID No. (...), to Defendant (ZATCA) Decision regarding zakat assessment subject matter of the Case in form and overturn Defendant's Decision on merits.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

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

(This judgment has become final due to expiry of objection period in accordance with Article (40) of Tax Dispute and Violation Committee Procedures).



Key words:

Zakat - Accounts - Deducting Foreign Investment - Financial Statements - Double Payment of Zakat

Abstract

The Zakat Payer instituted this case requesting to cancel ZATCA's Decision regarding the zakat assessment for the year 2016. The dispute involves Defendant's procedure outlined in issuing zakat assessment for 2016. The Department found, regarding Defendant's procedure outlined in issuing zakat assessment for 2016, that Zakat Payer did not provide financial statements of the company in which Zakat Payer has investments outside the Kingdom from a chartered accountant, and did not attach evidence on paying zakat on such investment. Therefore, the Department dismisses Zakat Payer's objection.

Instruments:

- [Zakat Law promulgated by Royal Order No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- Paragraph (3) of Article (20) of [Implementing Regulations for the Collection of Zakat issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH.](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance Resolution No. \(1535\) dated 11/06/1425 AH](#)

Facts:

The facts of this Case are summed up that (...), holder of National ID No. (...), in his capacity as Attorney of Plaintiff (... Company), C.R. No. (...), under POA No. (...), filed an objection to ZATCA zakat assessment for 2016. Plaintiff's objects to (Deducting Foreign Investments) item: Plaintiff objects to disallowing deduction of foreign investments. In addition, Plaintiff stated, in the statement of claim, that such foreign investments outline investment in (... Company) in the Arab Republic of Egypt, and that Plaintiff provided financial statements issued by a certified public accountant in Arab Republic of Egypt (...) and added that the Ministerial Resolution No. (1005) did not stipulate providing audited financial statements notarized by government authorities in order to accept deducting foreign investments from zakat base, but rather the said resolution stipulates that it is required to provide proof of zakat payment for this investment by the external company in which the investment was made, or to submit the audited financial statements. In addition, Plaintiff added that it provided Defendant with a copy of the financial statements for the purpose of calculating zakat payable by the company in which the investment was made outside the Kingdom. Moreover, Plaintiff elaborated that the movement in



sale/valuation variances related to the investment resulted from the following: Financial or economic circumstances that compelled the Company to liquidate some investments in order to obtain the necessary liquidity to fulfill its obligations. In addition, Plaintiff stated that at the time of purchase, the investments were not necessarily intended for acquisition, as this Decision was made due to an unforeseeable emergency. Furthermore, Plaintiff added that Defendant accepted deducting foreign investments in (... Company) from zakat base for 2016 based on the audited financial statements and calculating zakat without requiring notarization of the audited financial statements. Thereupon, Plaintiff requests accepting deduction of the aforementioned investments.

Having presented the statement of claim to Defendant, Defendant answered as follows: Regarding accepting deduction from zakat base in (...) Company's investment for 2016 amounting to SAR 3,595,667 due to the fact that Plaintiff had provided the financial statements of the company in which the investment was made and a statement of zakat due on its share in such company. Thereupon, Defendant included the base in zakat assessment and in exchange for deducting this investment. In addition, upon reviewing zakat assessment for 2018, it turns out that ZATCA had deducted investments in (...) Company due to the fact that Zakat Payer provided the financial statements of the company where the investment was made and a statement of zakat due on its share in such company. Thereupon, ZATCA included the base in the assessment in exchange for deducting such investment. In addition, ZATCA held a meeting with Plaintiff on 24/12/2020 AD. At such meeting, Plaintiff accepted Defendant's stance with regard to disallowing deduction of investments in (...) Company for 2017 amounting to SAR 3,562,168. As for (...) Company, Zakat Payer stated the following: It is noted that there were sale transactions in 2013, 2014 and 2017. Plaintiff stated that due to the devaluation of EGP against USD, a very small number of shares were sold in the amount of SAR 455,824. In addition, Plaintiff was asked to provide the following data: - Calculation of Company's zakat. - Company's audited financial statements. - IMF Report. - ZATCA assessment for 2018. Plaintiff was given a deadline until 27/12/2020 AD to submit the required data. However, the Department found that the audited financial statements were not notarized by the official authorities in Egypt. In addition, it is noted that sale transactions involving investments, noting that the movement of investments for years from 2014 to 2018 showed sale transaction. Therefore, Plaintiff's objection was rejected due to failure to meet the conditions for deduction, which outline: 1. The documented intention of the authorized person indicating the purpose of investment. 2. There are no trading operations. and requests dismissing the Case.

On (...), .. /.../..., the Department held its session remotely to consider the Case. Having called the litigants, the Department found that (...), holder of National ID No (...), appeared in his capacity as Plaintiff's Attorney under POA No. (...). In addition, (...) appeared Mr., holder of National ID No., appeared in his capacity as Defendant's (ZATCA) Representative, by virtue of Authorization No. dated .../.../..., issued by Deputy Governor for Legal Affairs. Having asked Plaintiff's Attorney regarding his case, he maintained his statements contained in the statement of claim submitted to General Secretariat of Tax Committees. Having asked Defendant's Representative regarding his reply, he maintained his answers previously contained in his Reply submitted to General Secretariat of Tax Committees. Having asked both parties to the Case if they would like to add any statements or documents, they answered "no". Therefore, the Department decided to close pleadings for deliberation.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Minister of



Finance Resolution No. (2082) dated 01/06/1438 AH, and Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) dated 11/06/1425 AH, as amended, and Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to cancel ZATCA Decision regarding zakat assessment for 2016, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 documents included in Case file, requests, defense and arguments raised by the parties, the Department found that the dispute involves Defendant's procedure outlined in issuing zakat assessment for 2016 in accordance with the Ministerial Resolution No. (1005) dated 28/04/1428 AH: **Second:** Investments in entities outside the Kingdom, in partnership with others, shall be deducted from Zakat Payer's declaration, provided that Zakat Payer submits audited accounts from a certified public accountant in the country of investment in order to calculate zakat due on these investments and to remit them to ZATCA. Alternatively, Zakat Payer may provide proof that zakat has been paid in the country of investment, and accordingly deducting such investment from zakat base of the Saudi investing company to avoid double payment of zakat on these companies. If Zakat Payer does not provide the required documents above-mentioned, the investments shall not be deducted from zakat base". In accordance with Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH that states: "The zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the zakat payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it".

Based on the foregoing, and in accordance with provisions of Ministerial Resolution No. (1005) above-mentioned, since Plaintiff is entitled to deduct external investment from zakat base, provided that Plaintiff abides by provisions of such resolution, by providing Defendant with accounts audited by a chartered accountant in the country of investment in order to calculate zakat due on these investments and to remit them to Defendant. Alternatively, Zakat Payer may provide proof that zakat has been paid in the country of investment and accordingly deducting such investments from zakat base of the investing company to avoid double payment of zakat. If Zakat Payer does not provide the above-mentioned documents, such investments shall not be deducted from its zakat base. Since the dispute in connection with this item is document-based. Having reviewed the documents included in Case file, and since Plaintiff did not provide the financial statements of the company in which Plaintiff has investments outside the Kingdom audited by a chartered accountant, and that Plaintiff did not attach documents that prove paying zakat on such investment. Therefore, the Department dismisses Plaintiff's objection.

For the aforementioned Grounds, the Department unanimously decided as follows:

C.

Decision

Accept objection filed by Plaintiff (... Company), C.R. No. (...), to Defendant (ZATCA) Decision in form and dismiss the objection on merits.



This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

Appellate Committee:

Appeal Committee ruled to uphold the Decision.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IFR-2022-659
Case No. Z-21348-2020

Key words:

Zakat - Accounts - Trade Creditors - Accrued Expenses and Other Credit Balances - Advance Payments for Fixed Assets - Non-Deductible Expenses

Abstract

Zakat Payer requests canceling ZATCA Decision regarding zakat assessment for 2016. The dispute involves Defendant's procedure outlined in issuing zakat assessment for 2016, as Zakat Payer objects to Defendant's procedure regarding the following: Regarding (Trade Creditors) item, Defendant added (Trade Creditors) item to zakat base. Regarding (Accrued Expenses and Other Creditor Balances) item, Defendant added accrued expenses and other credit balances to zakat base. Regarding (Advance Payments for Fixed Assets) item, Defendant added non-deductible expenses to zakat base. Regarding (Non-Deductible Expenses) item, Defendant added non-deductible expenses amounting to SAR 6,059 to zakat base for 2016. Since the Department found, regarding (Trade Creditors) item and (Accrued Expenses and Other Credit Balances) item, that Zakat Payer did not provide the detailed movement of accounts payable. Regarding (Advance Payments for Fixed Assets) item, the Department found that Defendant accepted Zakat Payer's objection as stated in the answer submitted by Defendant. Regarding (Non-Deductible Expenses) item, the Department found that Zakat Payer did not provide supporting documents for the statement of claim. Therefore, the Department establishes resolution of Zakat Payer's dispute regarding (Advance Payments for Fixed Assets) item and dismisses other objections filed by Zakat payer.

Instruments:

- [Article 20.1 of Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441](#)
- [Zakat Law promulgated by Royal Order No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- Article (55), Article (56) and Article (70) of [the Law of Civil Procedure promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Resolution No. \(1535\) dated 11/06/1425 AH](#)
- Paragraph (5/First) of Article (4), Paragraph (1) of Article (5) and Paragraph (3) of Article (20) of [the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH](#)
- Paragraph (1) of Article (70) of [the Implementing Regulations of the Law of Civil Procedure issued by Minister of Justice Resolution No. \(39933\) dated 19/05/1435 AH](#)



Facts:

The facts of this case are summed up as follows: Mr....., holder of National ID No. (...), in his capacity as Attorney of Plaintiff (... Company), C.R. No. (...), under POA No. (...) Dated ../ ../.. issued from (...) Notary Public, filed an objection to ZATCA zakat assessment for 2016.

Having presented the statement of claim to Defendant, Defendant argued requesting the Department to dismiss the Case in form due to expiry of statutory period for filing grievance before Primary Committee in accordance with Article (3) of Tax Dispute Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Thereupon, ZATCA requests dismissing the Case, while maintaining its right to submit further responses and clarifications before the competent committees.

In addition, Defendant submitted a supplementary memorandum therein answered regarding the first item: Trade Creditors: Defendant rejected Plaintiff's objection due to failure to provide the supporting documents in accordance with Article (20) of the Implementing Regulations for the Collection of Zakat issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH. Item Second: Accrued Expenses and Other Credit Balances: Defendant rejected Plaintiff's objection, as Defendant added item's amounts that completed a full year in accordance with Article (4) of the Implementing Regulations for the Collection of Zakat. Item Third: Advance Payments for Fixed Assets: Defendant accepted Plaintiff's objection after reviewing its financial statements in accordance with Article (4) of the Implementing Regulations for the Collection of Zakat. Fourth Item Non-Deductible Expenses: Defendant rejected Plaintiff's objection in accordance with Article (5) of the Implementing Regulations for the Collection of Zakat. On (...), .. The Department held its session remotely to consider the Case, where Plaintiff's Attorney did not appear despite of being duly notified. In addition, (...) appeared (National ID No..) in his capacity as Defendant/ZATCA Representative by virtue of Authorization No..... dated 19/05/1441 AH issued by the Deputy Governor for Legal Affairs and Compliance. Dated ../ Having asked Defendant's Representative about Plaintiff's claim, he answered by insisting on the statements included in Defendant's answer and requested the Department to dismiss any new documents that were not submitted to Defendant during examination and objection stage. Having asked the Defendant's Representative if she had any other statements, she replied "no". Therefore, the Department decided to close pleadings for deliberation.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH, and 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 Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff filed the case to abolish Defendant's Decision regarding Zakat Assessment of 2016 AD, and since this dispute is a Zakat dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Decree No. (26040) of 21/04/1441 AH, and since the Case was filed by a person with capacity, and within the period prescribed by Law, it is then accepted in form. On Merits: Having examined the papers and documents contained in the case file, as well as the requests, defenses and pleas made by its parties, the Department found that the



Plaintiff objects to the zakat assessment made by the Defendant for the year 2016 AD, specifically in respect of four items, namely:

First: Trade Creditors:

The dispute involves Plaintiff's objection to Defendant's procedure outlined in adding (Trade Creditors) item amounting to SAR 33,670,929 to zakat base for 2016. In addition, Plaintiff stated that the amount outlines payments received from some customers in exchange for implementing projects, and that the amount is released for supplying necessary materials. Moreover, Plaintiff added that the payment of zakat on both advance payments for projects and results of its business activity result in double payment of zakat. On the other hand, Defendant argued that its procedure was issued in accordance with provisions of the Implementing Regulations for the Collection of Zakat. In addition, Paragraph (5/First) of Article (4) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH states: "The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 5. Government and commercial loans, along with other similar financing sources, such as creditors, notes payable and overdrafts owed by Zakat Payer as follows: A. remained in cash and had a year passed on it. B. were used to finance acquisition assets. C. The portion used for trading assets and for which a full year has passed". In addition, Paragraph (3) of Article (20) of the same Regulations states: "The burden of proving validity of the items mentioned in Zakat Payer's declaration and any other data shall fall on Zakat Payer. In the event that Zakat Payer is unable to prove validity of the items mentioned in his declaration, ZATCA may not approve the item whose validity is not proven by Zakat Payer or make an estimated assessment according to its discretion in light of the circumstances and facts related to the case and the information available thereto". Based on the forgoing, having taken cognizance of Case file, the Department found that Plaintiff did not provide the detailed movement of accounts payable. Since the accounts payable are considered one of zakat base components, provided that such accounts payable complete a full year or are used in financing deducted assets. Therefore, the Department dismisses Plaintiff's objection.

Second: (Accrued Expenses and Other Credit Balances):

The dispute involves Plaintiff's objection to Defendant's procedure outlined in adding accrued expenses and other credit balances amounting to SAR 2,600,900 to zakat base for 2016. In addition, Plaintiff stated that the amounts outline employees' dues. Accordingly, such expenses outline a fixed liability payable by Plaintiff and a cash deposit. On the other hand, Defendant argued that its procedure was issued in accordance with provisions of the Implementing Regulations for the Collection of Zakat. In addition, Paragraph (5/First) of Article (4) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH states: "The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 5. Government and commercial loans, along with other similar financing sources, such as creditors, notes payable and overdrafts owed by Zakat Payer as follows: A. remained in cash and had a year passed on it. B. were used to finance acquisition assets. C. The portion used for trading assets and for which a full year has passed". In addition, Paragraph (3) of Article (20) of the same Regulations states: "The burden of proving validity of the items mentioned in Zakat Payer's declaration and any other data shall fall on Zakat Payer. In the event that Zakat Payer is unable to prove validity of the items mentioned in his declaration, ZATCA may not approve the item whose validity is not proven by Zakat Payer or make an estimated assessment according to its discretion in light of the circumstances and facts related to the case and the information available thereto". Based on the forgoing, having taken cognizance of Case file, the Department found that Plaintiff did not provide the detailed movement of accounts payable and accrued expenses. Since the accounts



payable and accrued expenses are considered one of zakat base components, provided that such accounts payable and accrued expenses complete a full year or are used in financing deducted assets. Therefore, the Department dismisses Plaintiff's objection.

Third: (Advance Payments for Fixed Assets) item:

In accordance with Article (70) of the Law of Civil Procedure promulgated by Royal Decree No. (M/1) dated 22/01/1435 AH that states: "Litigants may, at any stage of the case, ask the court to enter agreed-upon acknowledgment, settlement, or the like in the case record, and the court shall issue a deed to that effect". In addition, Paragraph (1) of Article (70) of the Implementing Regulations of the Law of Civil Procedure issued by Minister of Justice Resolution No. (39933) dated 19/05/1435 states: "If an agreement is reached prior to entering the case, the text of the case and the answer shall be entered prior to entering such agreement, provided that the original case falls within the jurisdiction of the circuit, even if the text of the agreement falls within the jurisdiction of another court or circuit and the object of the case or portion thereof is agreed upon". Based on the foregoing, and since the Department found that Defendant accepted Plaintiff's objection as stated in Defendant's answer. Therefore, the Department establishes resolution of the dispute regarding this item.

Fourth: (Non-Deductible Expenses) item:

The dispute involves Plaintiff's objection to Defendant's procedure outlined in adding non-deductible expenses amounting to SAR 6,059 to zakat base for 2016. In addition, Plaintiff stated that the amounts are related to the business activity and were deducted from project revenues. On the other hand, Defendant argued that its procedure was issued in accordance with provisions of the Implementing Regulations for the Collection of Zakat. In addition, Paragraph (1) of Article (5) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH states: "The following expenses can be deducted to determine the net result of activity: 1. Expenses ordinary and necessary for an entity to engage in business activity, subject to meeting the following criteria: a. Expenses should be actual expenses as supported by relevant documents and other evidential matter to enable the Authority to verify the accuracy of expenses, even if related to prior years. b. Expenses should be related to Zakat Payer's business activity rather than personal expenses or other than Zakat Payer's own activities. c. Expenses shall not be of capital nature. Where a capital expenditure is included in the expenses such expenditure shall be adjusted against the result of activity, added to fixed assets and accordingly depreciated as applicable". In addition, Paragraph (3) of Article (20) of the same Regulations states: "The burden of proving validity of the items mentioned in Zakat Payer's declaration and any other data shall fall on Zakat Payer. In the event that Zakat Payer is unable to prove validity of the items mentioned in his declaration, ZATCA may not approve the item whose validity is not proven by Zakat Payer or make an estimated assessment according to its discretion in light of the circumstances and facts related to the case and the information available thereto". Based on the foregoing, having taken cognizance of Case file, the Department found that the dispute is document-based, as Plaintiff did not provide the supporting documents for the statement of claim. Since such expenses are considered deductible if proven to be actual expenses based on supporting documents. Therefore, the Department dismisses Plaintiff's objection.

As for failure of Plaintiff's Attorney to attend the hearing despite of being duly notified and Department's Decision in the Case subject matter of consideration in absentia without an excuse acceptable to the Department, the Department relied on Paragraph (1) of Article (20) of Tax Dispute and Violation Committee Procedures that states: "If a Plaintiff fails to attend any hearing after being notified of the date set for consideration of the suit without an excuse acceptable to the circuit, the circuit must decide the suit if it is ripe for judgment". In addition, the Decision rendered in this case shall be deemed as if rendered



in presence of Plaintiff in accordance with Article (56) of the Law of Civil Procedure that states: "If the plaintiff fails to attend the court hearings, in accordance with Article 55 of this Law, the defendant may petition the court to rule on the merits of the case. The court shall rule on the case if it is ripe for judgment and such judgment shall be deemed as if rendered in the presence of the plaintiff". Since Plaintiff did not submit an acceptable excuse for failure to attend the session, and that the Department has deemed that the Case is ripe for adjudication according to Case documents. Therefore, the Department renders its Decision in the Case as if in presence of Plaintiff.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision

First: Declare that the dispute between the PlaintiffCompany TIN No..... with Defendant (ZATCA) regarding (Advance Payments for Fixed Assets) item subject matter of the Case when Defendant accepted Plaintiff's requests in this regard.

Second: Dismiss otherwise objections filed by Plaintiff (... Company), TIN No..... to Defendant (ZATCA) Decisions regarding zakat assessment subject matter of the Case.

This Decision was delivered in presence of the parties. The Department set Sunday, 24/08/1444 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not challenge the Decision.

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

Appellate Committee:

Appeal Committee ruled to uphold the Decision.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IFR-2022-1191

Case No. Z-33672-2021

Key words:

Zakat - Accounts - Bad Debts - Accrued Expenses - Investment Variances

Abstract

The Zakat Payer instituted this case requesting to cancel ZATCA's Decision regarding the zakat assessment for the year 2018. The dispute involves claim that Defendant issued zakat assessment for 2018. The dispute involves Plaintiff's objection to Defendant's procedure as follows: Regarding (Bad Debts) item, Defendant added balance of bade debts to net profit. Regarding (Accrued Expenses) item, Defendant added carried forward balance of accrued expenses outlined in employees' travel tickets and leave allowance to zakat base. Regarding (Investment Variances) item, Defendant derecognized profits of zakatable investments. The Department found, regarding (Bad Debts) item, that Plaintiff did not provide the necessary documents and satisfied with providing balance statement of account and a statement of employee's departure from the Kingdom. Regarding (Accrued Expenses) item, the Department found that the opening balance of added provisions after deducting the used balance did not complete a full year. Regarding (Investment Variance) item, Defendant deducted Plaintiff's share of profits in the companies in which Plaintiff has investments from year's profits, which results in double deduction. Therefore, the Department establishes resolution of the dispute regarding leave provision, overturns Defendant's Decision regarding ticket provision and dismisses otherwise objections.

Instruments:

- [Zakat Law promulgated by Royal Order No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Resolution No. \(1535\) dated 11/06/1425 AH](#)
- Paragraph (9/First) and Paragraph (4/A) of Article (4), Paragraph (3) of Article (5) and Paragraph (2) of Article (6) of [the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH](#)

Facts:

The facts of this case are summed up as follows: Mr....., holder of National ID No. (...), in his capacity as legal Representative of Plaintiff (... Company), C.R. No. (...), under memorandum of association, filed an objection to ZATCA zakat assessment for 2017. Having presented the statement of claim to Defendant, it answered regarding (Bad Debts) item: Defendant added (Bad Debts) item to net profit. Having reviewed statements



provided by Plaintiff, Defendant found that the first part of item amounting to SAR 644,276 outlines amounts payable to (... Company) (previously (...) Company) by (... Company), and other part of item outlines a debt owed by Company's former employee. Since Plaintiff did not provide a certificate from a chartered accountant confirming that the debts were written off and entries confirming that the debt was written off. In addition, the debt in other part of item is not resulting from engaging in business activity. Therefore, Plaintiff's objection to the entire item was rejected in accordance with Article (5) of the Implementing Regulations for the Collection of Zakat. Regarding (Accrued Expenses) item: Defendant added the carried forward balance of (Accrued Expenses) item to zakat base. Since the item comprises ticket and leave provision. Therefore, Plaintiff's objection regarding ticket provision was rejected, while adjusting net profit and accepting Plaintiff's objection to leave item due to meeting accrual and estimation conditions. Regarding (Investment Variances) item: Defendant deducted investments amounting to SAR 473,966,525 from zakat base. Having reviewed the financial statements, it turns out that the closing balance of investments amounts to SAR 477,849,091. Since Defendant deducted year's profit realized from the companies in which Plaintiff has investments as shown in the financial statements in the amount of SAR 3,882,566 in zakat assessment as zakatable investment profits, which results in double deduction of investment profits as received profits on one hand and when such profits are deducted within investment value on the other hand. Therefore, Defendant requests dismissing the Case, while maintaining Defendant's right to submit further responses and clarifications until closing of pleadings. On (...), .././..., the Department held its session remotely to consider the Case, where (...), holder of National ID No. (...), appeared in his capacity as Plaintiff's Attorney under POA No. (...) Dated .././... issued from (...) Notary Public. In addition, (...), holder of National ID No. (...), in his capacity as Defendant/ZATCA Representative by virtue of Authorization No..... dated .././... AH issued by Deputy Governor for Legal Affairs and Compliance. Having asked Plaintiff's Attorney about the claim of his principal, he answered by insisting on statements included in the statement of claim lodged with the General Secretariat of Tax Dispute and Violation Committees. In addition, Plaintiff's Attorney added that his principal insists that (Accrued Expenses) item did not complete a full year, and such expenses shall be deducted in accordance with Paragraph (1) of Article (5) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. Having referred to the Defendant's Representative for its reply, she invoked the statements provided by the Defendant in its plea requesting that the Department does not accept further documents that were not submitted to the Defendant during the inspection and objection stage. Having asked both parties if they had other statements, they answered "no". Therefore, the Department decided to close pleadings for deliberation.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, and 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 Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff filed the Case to abolish Defendant's Decision regarding Zakat Assessment of 2018 AD, and since this dispute is a Zakat dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Decree No. (26040) of 21/04/1441 AH, and since the Case was filed by a person with capacity, and within the period prescribed by Law, it is then accepted in form.



On Merits: Having taken cognizance of documents included in Case file, requests, defense and arguments raised by the parties, the Department found that the dispute involves the fact that ZATCA issued zakat assessment for 2018. In addition, Plaintiff objects to three items as follows:

First: (Bad Debts) item:

The dispute involves Plaintiff's objection to Defendant's procedure outlined in adding balance of bad debts amounting to SAR 679,755 to net profit for 2018. Plaintiff stated that a part of debts is recognized since 2002, and that Plaintiff Company's Finance Department filed a memorandum to Board Chairman to instruct approving calculation of bad debt provision in value of the above-mentioned amount and using provision to settle the amount according to Company's financial procedure. In addition, the resolution was approved by the Board according to its powers. Plaintiff added that other part is payable by one of its employees who left the Kingdom and has neither returned nor repaid the amount. On the other hand, Defendant argued that its procedure was issued in accordance with provisions of the Implementing Regulations for the Collection of Zakat, as Plaintiff did not provide a certificate from a chartered accountant, confirming that the debts were written off, and entries confirming that the debt was written off. In addition, the debt in other part of item is not resulting from engaging in business activity. Since Paragraph (3) of Article (5) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH states: "Bad debts are expenses that may be deducted in accordance with the following controls: a. Debts should have been previously declared within revenues in the year the revenue was generated. b. Debts shall be the result of carrying out activities. c. The Zakat Payer shall provide a certificate from a certified public accountant licensed to operate in the Kingdom, confirming that the debts are written-off by resolution of the authorized person. d. The debts shall not be payable by bodies associated with the Zakat Payer. e. The Zakat Payer shall report the debts written off as revenue where such debts are recovered". In addition, Paragraph (2) of Article (6) of the same Regulations, related to non-deductible expenses, states: "Expenses that the Zakat Payer fails to prove by supporting documents or other evidential matter". Based on the foregoing, having taken cognizance of documents, regarding the first part of item related to (...) Company, the Department found that Plaintiff satisfied with submitting a claim letter by (...) Company to (...) Enterprise, claiming payment of amount portion to Plaintiff Company, in addition to submitting entries from Company's general ledger and a memorandum of settling balance of bad debts, without submitting a certificate from a chartered accountant confirming that the bad debts were written off. As for other part of item payable by one of Company's employees, the Department found that Plaintiff did not provide the necessary documents and satisfied with providing balance statement of account and a statement confirming that the employee left the Kingdom. Therefore, the Department dismisses Plaintiff's objection.

Second: (Accrued Expenses) item:

The dispute involves Plaintiff's objection to Defendant's procedure outlined in adding carried forward balance of accrued expenses outlined in employees' travel tickets amounting to SAR 14,745 and leave allowance amounting to SAR 17,633 to zakat base for 2018. Plaintiff stated that the amount that completed a full year among the said accounts is the opening balance after deducting withdrawals throughout the year in accordance with ZATCA Circular No. (1432/16/583) dated 29/01/1432 AH. In addition, Plaintiff claims that by reviewing movement of employees' travel account and movement of leave allowance account, it turns out that there are not amounts that completed a full year. On the other hand, Defendant argued that it rejected Plaintiff's objection to ticket provision item, adjusted net profit and accepted Plaintiff's objection to leave item due to meeting accrual and estimation conditions. Since Paragraph (9) of Clause (First) of Article (4) of



the Implementing Regulations for the Collection of Zakat issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH states: "The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 9. Provisions of year beginning (except provisions of doubtful debts for banks) after deducting the used provisions throughout the year". Based on the foregoing, regarding leave provision, the Department found that the dispute was resolved when Defendant accepted Plaintiff's request regarding leave provision according to its answer. As for travel ticket provision, having taken cognizance of documents, the Department found that the opening balance of provisions added after deducting used provisions completed a full year in accordance with Paragraph (9/First) of Article (4) of the Implementing Regulations for the Collection of Zakat. Therefore, the Department overturns Defendant's Decision regarding ticket provision.

Third: (Investment Variances) item:

The dispute involves Plaintiff's objection to Defendant's procedure outlined in derecognizing zakatable investment profits amounting to SAR 473,966,525 for 2018. In addition, Plaintiff requests deducting investment profits according to equity from zakat base. On the other hand, Defendant argued that it deduct year's profits from the companies in which Plaintiff has investments as shown in the financial statements in the amount of SAR 3,882,566 in zakat assessment as zakatable investment profits, which results in double deduction of investment profits as received profits on one hand and when such profits are deducted within investment value on the other hand. Since Paragraph (4/A) of Article (4) of the Implementing Regulations for the Collection of Zakat issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH states: "Investments in establishments inside the Kingdom - in partnership with others - if such investments are subject to collection of Zakat under these Regulations, if investment in such establishments is not subject to collection, then it shall not be deducted from base". As such, since Plaintiff requests deducting its share of profits from zakat base. On the other hand, Defendant argued that it deducted Plaintiff's share of profits from the companies in which Plaintiff has investments, which results in double deduction. Therefore, the Department dismisses Plaintiff's objection.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision

First: Declare that the dispute between the PlaintiffCompany TIN No..... with Defendant (ZATCA) regarding leave provision subject matter of the Case when Defendant accepted Plaintiff's request in this regard.

Second: Cancel Defendant (ZATCA) Decision against Plaintiff (...), TIN No..... regarding ticket provision subject matter of the dispute.

Third: Dismiss otherwise objections filed by Plaintiff (... Company), TIN No..... to Defendant (ZATCA) Decisions regarding zakat assessment subject matter of the Case.

This Decision was delivered in presence of the parties. The Department set Thursday, 10/11/1443 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if both parties do not file an objection.

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

Appellate Committee:

Appeal Committee ruled to uphold the Decision.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-206
Case No. Z-47261-2021

Key words:

Zakat - Estimate Assessment - Financial Statement - Zakat Declaration

Abstract

Zakat Payer requests overturning ZATCA Decision regarding estimate zakat assessment for 2012. Zakat Payer objects to Defendant's procedure outlined in making estimate assessment. In addition, Plaintiff provided the audited financial statements, claiming that the Company did not engage in business activity throughout the period as stated in auditor's report. The Department found that Zakat Payer did not provide the audited financial statements, but rather Plaintiff provided such financial statements when filing an objection to ZATCA assessment. In addition, the Department found that such financial statements were approved in 2021 by a chartered accountant. Given the extended period between approval of financial statements and Plaintiff's procedure, it turns out that there is a failure to comply with the imposed controls. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Order No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of Income Tax Law promulgated by Minister of Finance Resolution No. \(1535\) dated 11/06/1425 AH](#)
- Paragraph (5) of Article (13) of [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summed up as follows: Mr....., holder of National ID No. (...), in his capacity as legal Representative of Plaintiff (... Company), C.R. No. (...), filed an objection to ZATCA estimate zakat assessment for 2012. Plaintiff objects to Defendant's procedure outlined in making estimate assessment, as Plaintiff provided the audited financial statements, claiming that the Company did not engage in any business activity throughout the period as stated in auditor's report. Thereupon, Plaintiff requests overturning ZATCA procedure outlined in rejecting Plaintiff's objection.

Having presented the statement of claim to Defendant, it answered that its estimate assessment Decision was made due to Plaintiff's failure to provide zakat declarations and financial statements within the statutory period for years subject matter of objection, as Plaintiff provided the approved financial statements that found approved by a chartered accountant during the period from .. /.. /... to .. /.. /... AH, i.e. following the date of



approving zakat assessments. In addition, Defendant argued that its Decision was made in accordance with Paragraph (5) of Article (13) of the Implementing Regulations for the Collection of Zakat.

On Monday, 07/02/2022 AD, the Department held its session remotely to consider the Case. At that session, Plaintiff's Attorney (...), holder of National ID No. (...), appeared pursuant to POA No. (...). In addition, Defendant's Representative appeared holder of National ID No. (...), appeared pursuant to Authorization No. (...) dated .././... AH issued by ZATCA Deputy Governor for Legal Affairs. Having asked parties to the Case if they would like to add any statements or documents, they satisfied with those previously submitted. Therefore, the Department decided to adjourn the session for deliberation before adjudication.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH, and 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 Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 2012, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 documents included in Case file, requests, defense and arguments raised by parties to the Case, the Department found that the dispute involves Defendant's procedure outlined in making estimate zakat assessment for 2012. Plaintiff objects to Defendant's procedure outlined in estimate assessment and requests overturning Defendant's procedure. On the other hand, Defendant argued that its procedure is valid in accordance with Paragraph (5) of Article (13) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH that states: "5. ZATCA shall be entitled to account Zakat Payers on estimate basis in order to oblige them to comply with legal requirements in the following cases: A. If Zakat Payer fails to file his declaration based on statutory books and records in the deadline. B. Failure to maintain accurate statutory books and records that reflect reality of Zakat Payer's activity. E. If Zakat Payer fails to prove accuracy of information reported in his declaration under supporting documents". As such, having taken cognizance of Case file, the Department found that ZATCA relied in its procedure for issuing estimate assessment on Paragraph (5) of Article (13) of the Implementing Regulations for the Collection of Zakat, as ZATCA considered that Plaintiff's failure to provide the financial statements, when requested during the period given to Plaintiff, entitles it to make estimate assessment. Having taken cognizance of Case file on the system, the Department found that Plaintiff did not provide the audited financial statements, but rather Plaintiff provided such financial statements when filing an objection to ZATCA assessment. In addition, the Department found that such financial statements were approved in 2021 by a chartered accountant, i.e. following ZATCA assessment date. Given the extended period between approval of financial statements and Plaintiff's procedure, it turns out that there is a failure to comply with the imposed



controls. Since Plaintiff did not state an acceptable excuse for delay in approving financial statements. Therefore, the Department dismisses Plaintiff's objection to estimate zakat assessment.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision

Dismiss objection filed by Plaintiff (... Company), C.R. No. (...), to estimate zakat assessment.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by Article (42) of Tax Dispute and Violation Committee Procedures.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-207
Case No. Z-47261-2021

Key words:

Zakat– Estimate Assessment - Financial Statements - Zakat Declaration

Abstract

Zakat Payer requests canceling ZATCA Decision regarding estimate zakat assessment for 2013. The dispute involves Defendant's procedure outlined in issuing estimate zakat assessment for 2013. The Department found, regarding Defendant's estimate zakat assessment for 2013, that Zakat Payer did not provide the audited financial statements, but rather Zakat Payer provided such financial statements when filing an objection to ZATCA assessment. In addition, the Department found that such financial statements were approved in 2021 by a chartered accountant. Given the extended period between approval of financial statements and Plaintiff's procedure, it turns out that there is a failure to comply with the imposed controls. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Order No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of Income Tax Law promulgated by Minister of Finance Resolution No. \(1535\) dated 11/06/1425 AH](#)
- Paragraph (5) of Article (13) of [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summed up as follows: Mr....., holder of National ID No. (...), in his capacity as legal Representative of Plaintiff (... Company), C.R. No. (...), filed an objection to ZATCA estimate zakat assessment for 2013. Plaintiff objects to Defendant's procedure outlined in making estimate assessment, as Plaintiff provided the audited financial statements, claiming that the Company did not engage in any business activity throughout the period as stated in auditor's report. Thereupon, Plaintiff requests overturning ZATCA procedure outlined in rejecting Plaintiff's objection.

Having presented the statement of claim to Defendant, it answered that its estimate assessment Decision was made due to Plaintiff's failure to provide zakat declarations and financial statements within the statutory period for years subject matter of objection, as Plaintiff provided the approved financial statements that found approved by a chartered accountant during the period from .. /.. /... to .. /.. /... AH, i.e. following the date of approving zakat assessments. In addition, Defendant argued that its Decision was made



in accordance with Paragraph (5) of Article (13) of the Implementing Regulations for the Collection of Zakat.

On Monday, 07/02/2022 AD, the Department held its session remotely to consider the Case. At that session, Plaintiff's Attorney (...), holder of National ID No. (...), appeared pursuant to POA No. (...). In addition, Defendant's Representative, holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .././.. AH. Having asked parties to the Case about what they would like to add, they were satisfied with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation before adjudication.

Grounds

Having reviewed Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH, and 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 Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 2013, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 documents included in Case file, requests, defense and arguments raised by parties to the Case, the Department found that the dispute involves Defendant's procedure outlined in making estimate zakat assessment for 2013. Plaintiff objects to Defendant's procedure outlined in estimate assessment and requests overturning Defendant's procedure. On the other hand, Defendant argued that its procedure is valid in accordance with Paragraph (5) of Article (13) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH that states: "5. ZATCA shall be entitled to account Zakat Payers on estimate basis in order to oblige them to comply with legal requirements in the following cases: A. If Zakat Payer fails to file his declaration based on statutory books and records in the deadline. B. Failure to maintain accurate statutory books and records that reflect reality of Zakat Payer's activity. E. If Zakat Payer fails to prove accuracy of information reported in his declaration under supporting documents". As such, having taken cognizance of Case file, the Department found that ZATCA relied in its procedure for issuing estimate assessment on Paragraph (5) of Article (13) of the Implementing Regulations for the Collection of Zakat, as ZATCA considered that Plaintiff's failure to provide the financial statements, when requested during the period given to Plaintiff, entitles it to make estimate assessment. Having taken cognizance of Case file on the system, the Department found that Plaintiff did not provide the audited financial statements, but rather Plaintiff provided such financial statements when filing an objection to ZATCA assessment. In addition, the Department found that such financial statements were approved in 2021 by a chartered accountant, i.e. following ZATCA assessment date. Given the extended period between approval of financial statements and Plaintiff's procedure, it turns out that there is a failure to comply with the imposed controls. Since Plaintiff did not state an acceptable excuse for delay in approving financial



statements. Therefore, the Department dismisses Plaintiff's objection to estimate zakat assessment.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision

Dismiss objection filed by Plaintiff (... Company), C.R. No. (...), to estimate zakat assessment.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by Article (42) of Tax Dispute and Violation Committee Procedures.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-208
Case No. Z-47424-2021

Key words:

Zakat - Estimate Assessment - Financial Statement - Zakat Declaration

Abstract

Zakat Payer requests overturning ZATCA Decision regarding estimate zakat assessment for 2014. Plaintiff objects to Defendant's procedure outlined in making estimate assessment. Since Plaintiff provided the audited financial statements, claiming that the Company did not engage in any business activity throughout the period as stated in auditor's report. The Department found, regarding Defendant's estimate zakat assessment for 2014, that Zakat Payer did not provide the audited financial statements, but rather Zakat Payer provided such financial statements when filing an objection to ZATCA assessment. In addition, the Department found that such financial statements were approved in 2021 by a chartered accountant. Given the extended period between approval of financial statements and Zakat Payer's procedure, it turns out that there is a failure to comply with the imposed controls. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Order No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Resolution No. \(1535\) dated 11/06/1425 AH](#)
- Paragraph (5) of Article (13) of [Implementing Regulations for the Collection of Zakat issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summed up as follows: Mr....., holder of National ID No. (...), in his capacity as legal Representative of Plaintiff (... Company), C.R. No. (...), filed an objection to ZATCA estimate zakat assessment for 2014. Plaintiff objects to Defendant's procedure outlined in making estimate assessment, as Plaintiff provided the audited financial statements, claiming that the Company did not engage in any business activity throughout the period as stated in auditor's report. Thereupon, Plaintiff requests overturning ZATCA procedure outlined in rejecting Plaintiff's objection.

Having presented the statement of claim to Defendant, it answered that its estimate assessment Decision was made due to Plaintiff's failure to provide zakat declarations and financial statements within the statutory period for years subject matter of objection, as Plaintiff provided the approved financial statements that found approved by a chartered



accountant during the period from .. /../... to ../../... AH, i.e. following the date of approving zakat assessments. In addition, Defendant argued that its Decision was made in accordance with Paragraph (5) of Article (13) of the Implementing Regulations for the Collection of Zakat.

On Monday, 07/02/2022 AD, the Department held its session remotely to consider the Case. At that session, Plaintiff's Attorney (...), holder of National ID No. (...), appeared pursuant to POA No. (...). In addition, Defendant's Representative, holder of National ID No. (...), appeared pursuant to POA No. (...) dated ../../... AH issued by ZATCA Deputy Governor for Legal Affairs. Having asked parties to the Case about what they would like to add, they were satisfied with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation before adjudication.

Grounds

Having reviewed Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH, and 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 Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 2014, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 documents included in Case file, requests, defense and arguments raised by the parties, the Department found that the dispute involves claim that Defendant made estimate zakat assessment for 2014. In addition, Plaintiff objects to Defendant's procedure outlined in making estimate assessment and requests overturning Defendant's procedure. On the other hand, Defendant argued that its procedure is valid in accordance with Paragraph (5) of Article (13) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH that states: "5. ZATCA shall be entitled to account Zakat Payers on estimate basis in order to oblige them to comply with legal requirements in the following cases: A. If Zakat Payer fails to file his declaration based on statutory books and records in the deadline. B. Failure to maintain accurate statutory books and records that reflect reality of Zakat Payer's activity. E. If Zakat Payer fails to prove accuracy of information reported in his declaration under supporting documents". As such, having taken cognizance of Case file, the Department found that ZATCA relied in its procedure for issuing estimate assessment on Paragraph (5) of Article (13) of the Implementing Regulations for the Collection of Zakat, as ZATCA considered that Plaintiff's failure to provide the financial statements, when requested during the period given to Plaintiff, entitles it to make estimate assessment. Having taken cognizance of Case file on the system, the Department found that Plaintiff did not provide the audited financial statements, but rather Plaintiff provided such financial statements when filing an objection to ZATCA assessment. In addition, the Department found that such financial statements were approved in 2021 by a chartered accountant, i.e. following ZATCA assessment date. Given the extended period between approval of financial statements and Plaintiff's procedure, it turns out that there is a failure to comply with the imposed controls. Since Plaintiff did not state an acceptable excuse for



delay in approving financial statements. Therefore, the Department dismisses Plaintiff's objection to estimate zakat assessment.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision

Dismiss objection filed by Plaintiff (... Company), C.R. No. (...), to estimate zakat assessment.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-217
Case No. Z-21925-2020

Key words:

Zakat - Estimate Assessment - Zakat Declaration - Financial Statements - VAT Returns - Calculating Zakat Base

Abstract

Zakat Payer requests overturning ZATCA Decision regarding zakat assessment for 1440. Plaintiff objects to Defendant's procedure outlined in making estimate assessment due to the fact that ZATCA made an estimate assessment for 1440 in the amounting to SAR 92,683.5. Plaintiff stated, in the statement of claim, that it has statutory accounts and entered into a contract with a chartered accountant office. In addition, zakat was calculated on the required zakat amount in accordance with the Implementing Regulations for the Collection of Zakat. Since the Department found, regarding Defendant's estimate zakat assessment for 1440, that Zakat Payer adopted accounting on estimate basis in the declaration and only requested to be accounted based on the financial statements after Defendant made estimate assessment for the year in question. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Order No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of Income Tax Law promulgated by Minister of Finance Resolution No. \(1535\) of 11/06/1425 AH](#)
 - Paragraph (6) of Article (11) of [Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2216\) dated 07/07/1440 AH](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), holder of National ID No. (...), in his capacity as the Owner of (... Enterprise), C.R. No. (...), filed an objection to ZATCA estimate zakat assessment for 1440. Plaintiff objects to Defendant's procedure outlined in making estimate assessment due to the fact that ZATCA made an estimate assessment for 1440 in the amounting to SAR 92,683.5. Plaintiff stated, in the statement of claim, that it has statutory accounts and entered into a contract with a chartered accountant office. In addition, zakat was calculated on the required zakat amount in accordance with the Implementing Regulations for the Collection of Zakat. Thereupon, Plaintiff requests converting its accounts in statutory accounts, adopting balance sheet submitted to ZATCA that shows the base calculated in accordance with the Implementing Regulations for the Collection of Zakat and amending Enterprise's fiscal year.



Having presented the statement of claim to Defendant, it answered that its Decision was made in accordance with (Third) and (Fourth) of Rules of Calculating Zakat for Estimate Taxpayers issued by H.E. Minister of Finance Resolution No. (852) dated 28/02/1441 AH, as zakat base was calculated based on sales reported in VAT returns. Thereupon, ZATCA exercised its powers conferred according to the same, which authorizes it to account Zakat Payer on estimate basis in light of obtained information and data to which ZATCA shall have access, according to its powers stipulated by the law, to be able to calculate zakat base that fairly reflects the reality of Zakat Payer's business activity in light of circumstances and facts related to the case and information available at ZATCA, either through documented evidence provided by Zakat Payer or by direct and continuous access to any information that has a direct relation to Zakat Payer and maintained by third party and reveals the volume of imports, contracts, labor, loans and obtained subsidies.

On Monday, 31/01/2022 AD, the Department held its session remotely to consider the Case. Neither Plaintiff nor his Attorney appeared despite of being duly notified of session date. In addition, Defendant's Representative (...), holder of National ID No. (...), appeared pursuant to Authorization No. (...) dated ../../... AH issued by ZATCA Deputy Governor for Legal Affairs. Having taken cognizance of Case file, and since the Case was ripe for adjudication in accordance with Article (20) of Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation before adjudication.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH, and Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) of 11/06/1425 AH, as amended, and Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to cancel ZATCA Decision regarding estimate zakat assessment for 1440, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 documents included in Case file, requests, defense and arguments raised by the parties, the Department found that the dispute involves Defendant's procedure outlined in making estimate zakat assessment for 1440. Plaintiff objects to Defendant's procedure outlined in assessment and requests amending Defendant's procedure. Since Paragraph (6) of Article (11) of the Implementing Regulations for the Collection of Zakat issued by H.E. Minister of Finance Resolution No. (2216) dated 07/07/1440 AH states: "The Authority may account for a Zakat Payer on deemed basis in the following cases: 6. The information reported in Zakat Payer's declaration is found to be incorrect". As such, having taken cognizance of Case file, arguments and documents therein included, the Department found that Plaintiff is not considered one of small Zakat Payers due to engaging in "wholesale of foodstuffs, ready-made garments and household utensils" business activity. Accordingly, Plaintiff is required to keep statutory books and accounts and accordingly file its declaration. Since Plaintiff filed declaration on estimate basis and did not request to be accounted based on the financial statements before Defendant made estimate assessment, which give ZATCA the right to make estimate assessment when having access to data or information



reflecting reality of Plaintiff's business activity. Since ZATCA is entitled to collect information and calculate zakat on estimate basis. In addition, one of the significant evidential matters that can be utilized when calculating zakat is VAT returns provided by Plaintiff and that are adopted by ZATCA as a basis for calculating zakat base on estimate basis. Therefore, ZATCA procedure is valid. Since Plaintiff declared, in the statement of claim, preparing financial statements due to being accounted on estimate basis by ZATCA based on VAT returns, this is not deemed an acceptable excuse to consider the financial statements. Since Plaintiff chose to be accounted on estimate basis in its declaration and only requested to be accounted based on the financial statements after ZATCA made estimate assessment for the year in question. Therefore, the Department dismisses Plaintiff's objection to estimate zakat assessment for 1440.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision

Dismiss objection filed by Plaintiff (...), holder of National ID No. (...), to estimate zakat assessment for 1440.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-218
Case No. Z-21978-2020

Key words:

Zakat - Estimate Assessment - Calculating Zakat Base - Estimating Profits - Estimating Capital - VAT Returns

Abstract

Zakat Payer requests overturning ZATCA Decision regarding estimate zakat assessment for 1440. Plaintiff objects to Defendant's procedure outlined in making estimate assessment, as ZATCA made an estimate assessment for 1440 in the amount of SAR 214,336.87. The Department found, regarding Defendant's estimate zakat assessment for 1440, that Defendant applied the above-mentioned equation to sales reported in Zakat Payer's VAT returns. Therefore, ZATCA procedure is valid. As for Zakat Payer's claim to adopt expenses when making estimate assessment, Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Order No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of Income Tax Law promulgated by Minister of Finance Resolution No. \(1535\) dated 11/06/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summed up as follows: Mr....., holder of National ID No. (...), filed an objection to estimate ZATCA zakat assessment for 1440. Plaintiff objects to Defendant's procedure outlined in estimate assessment, as ZATCA made estimate assessment for 1440 in the amount of SAR 214,336.87. Plaintiff stated, in the statement of claim, that ZATCA made assessment without contacting Plaintiff. Thereupon, Plaintiff requests to be accounted based on income, expenses and entries.

Having presented the statement of claim to Defendant, it answered that its Decision was made in accordance with (Third) and (Fourth) of Rules of Calculating Zakat for Estimate Taxpayers issued by H.E. Minister of Finance Resolution No. (852) dated 28/02/1441 AH. Thereupon, ZATCA exercised its powers conferred according to the same, which authorizes it to account Zakat Payer on estimate basis in light of obtained information and data to which ZATCA shall have access, according to its powers stipulated by the law, to be able to calculate zakat base that fairly reflects the reality of Zakat Payer's business activity in light of circumstances and facts related to the case and information available at ZATCA, either through documented evidence provided by Zakat Payer or by direct and continuous access to any information that has a direct relation to Zakat



Payer and maintained by third party and reveals the volume of imports, contracts, labor, loans and obtained subsidies.

On Monday, 31/01/2022 AD, the Department held its session remotely to consider the Case. Neither Plaintiff nor his Attorney appeared despite of being duly notified of session date. In addition, Defendant's Representative (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Deputy Governor for Legal Affairs, (...) Dated .. / .. / ... AH. Having taken cognizance of Case file, and since the Case was ripe for adjudication in accordance with Article (20) of Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation.

Grounds

Having reviewed Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH, and 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 Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1440, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 documents included in Case file, requests, defense and arguments raised by the parties, the Department found that the dispute involves claim that ZATCA made estimate zakat assessment for 1440. Plaintiff objects to Defendant's procedure outlined in making estimate assessment and requests amending Defendant's procedure. On the other hand, Defendant argued that its procedure is valid. Since (Third) of Rules of Calculating Zakat for Estimate Taxpayers issued by H.E. Minister of Finance Resolution No. (852) dated 28/02/1441 AH states: "The Zakat base of Zakat Payer subject to these rules shall be evaluated by identifying capital that is appropriate to the size of Zakat Payer's activity, according to the following equation: $[(Sales/8) + (Sales \times 15\%)]$ and not less than the capital stated in the commercial register or the licenses required for the activity or any other documents through which the Authority can determine the capital". Based on the foregoing, and upon reviewing the data submitted by both parties, the Department found that the dispute lies in the Plaintiff's objection to the rate applied when calculating Zakat base amount using the estimated method. It is noteworthy that the Plaintiff was unaware of his ability to choose between estimated assessment and accounting-based assessment. Given that the Plaintiff falls into the category of taxpayers subject to Rules of Calculating Zakat for Estimate Taxpayers, the Defendant has the right to collect information and calculate the Plaintiff's Zakat using the estimated method in accordance with those rules that stipulate estimating the profits for the Plaintiff's activity at a rate of 15% of the sales declared in the VAT returns, and estimating the capital by dividing those sales by 8. Upon reviewing the disputed estimated assessment, it is clear that the Defendant has applied the above equation to the sales declared in the VAT returns submitted by the Plaintiff, which indicates the correctness of ZATCA's procedure. As for the Plaintiff's request to consider expenses when conducting the estimated assessment, calculating the Plaintiff's profit at a rate of 15% means that its estimated expenses constitute 85% of its revenue. Based on the foregoing, the Department decided to reject the Plaintiff's objection to estimated Zakat assessment for 1440 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:



Decision

Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat assessment for 1440 AH.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Key words:

Zakat - Estimated - Failure to Submit Zakat Declaration on Prescribed Date - Zakat Base

Abstract

Zakat Payer is requesting cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 2018, The Plaintiff contests the Defendant's action of conducting an estimated assessment, arguing that the Company has been consistently submitting its Zakat declaration before the due date in previous years. However, there was a delay in issuing the financial statements. Additionally, the difference between Zakat base according to the financial statements and Zakat base according to ZATCA's assessment is significant. It was established to the Department that the Defendant issued the estimated Zakat assessment for 2018, and that the Plaintiff did not submit its Zakat declaration on the prescribed date. As such, ZATCA has the right to assess Zakat Payers using the estimated method when Zakat Payer fails to submit its Zakat declaration based on systematic books and records by the prescribed date. Accordingly, the Department decided to dismiss the case.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Article \(13.5\) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summed up as follows: Mr....., Kuwaiti, (ID No. ...), in his capacity as Representative of Plaintiff/ Company (.....), (C.R. No. ...), pursuant to its AOA, has filed an objection to ZATCA's estimated Zakat assessment for 2018. The Plaintiff contests the Defendant's action of conducting an estimated assessment, arguing that the Company has been consistently submitting its Zakat declaration before the due date in previous years. However, there was a delay in issuing the financial statements. Additionally, the difference between Zakat base according to the financial statements and Zakat base according to ZATCA's assessment is significant.

Upon reviewing the statement of claim, the Defendant replied that ZATCA assessed the Plaintiff based on the 2016 budget and VAT returns, due to the Plaintiff's failure to submit the declaration and financial statements on the prescribed date.



On Monday, 07/02/2022 AD, the Department held a remote session to hear the Case. A person who was not legally authorized to represent the Plaintiff was present. The Defendant's Representative (...) was also present, holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated ../.. AH. Having reviewed the Case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds

Having reviewed Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 2018, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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, Upon careful examination of the documents included in the Case file and the requests, defenses, and arguments raised by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 2018. The Plaintiff contests the Defendant's action of conducting an estimated assessment and requests to cancel the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Moreover, Article (13.5) of the Implementing Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH stipulates: "ZATCA has the right to hold Zakat Payers accountable regarding estimated manner in order to oblige them to comply with legal requirements in the following cases: A- Failure of Zakat Payer to submit its Zakat declaration based on legal books and records on the regular date". Based on the foregoing, and upon reviewing the Case file and its contents, including the defenses and documents, the Department has found that the Plaintiff failed to submit its Zakat declaration on the prescribed date. In accordance with Article (13.5) of the Implementing Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, ZATCA has the right to assess Zakat Payers using the estimated method when Zakat Payer fails to submit its Zakat declaration based on systematic books and records by the prescribed date. This requires ZATCA to investigate and gather the necessary information to arrive at a fair Zakat base through the data and information it collects from other parties, as well as through field audits and any information provided by Zakat Payer to assist in estimating its Zakat base. As such, the Department decided to reject the Plaintiff's objection to estimated Zakat assessment for 2018.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision

Dismiss objection filed by Plaintiff (... Company), C.R. No. (...), to estimate zakat assessment.



This Decision was issued in the presence of both parties, in accordance with the provisions of Article 56 of the Law of Civil Procedures. The Department has set a thirty-day period for receiving a copy of the Decision via the website of the General Secretariat of the Zakat, Tax and Customs Committees. This Decision is considered final and enforceable as per Article 42 of the Tax Dispute and Violation Committee Procedures. May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-262
Case No. Z-51096-2021

Key words:

Zakat - Estimated - Zakat Base - VAT Sales - Cancellation of Commercial Registers - Capital Recorded in Active Commercial Registers

Abstract

Zakat Payer is requesting cancellation of the estimated Zakat assessment for 1429 AH claiming that he is not subject to Zakat as he is not in practice of the activity and that he has had its commercial registers canceled. The Department has established that the Defendant issued the estimated Zakat assessment for 1429 AH. Upon reviewing the estimated assessment issued by ZATCA, it is evident that Zakat Payer was assessed based on the capital shown in the commercial register. Although Zakat Payer has provided proof of the cancellation of his commercial register, he has not provided any evidence to support his claim of no practice of activity. Therefore, the Department decided to amend the Defendant's action.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Article \(13.6\) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), ID No. (...), has filed an objection to ZATCA's estimated Zakat assessment for 1429 AH. The Plaintiff demands not to be subject to Zakat, claiming that he ceased to practice activity and had his commercial register canceled.

Having presented the statement of claim to Defendant, it answered that its Decision was made in accordance with (Third) and (Fourth) of Rules of Calculating Zakat for Estimate Taxpayers issued by H.E. Minister of Finance Resolution No. (852) dated 28/02/1441 AH, as zakat base was calculated based on sales reported in VAT returns. Thereupon, ZATCA exercised its powers conferred according to the same, which authorizes it to account Zakat Payer on estimate basis in light of obtained information and data to which ZATCA shall have access, according to its powers stipulated by the law, to be able to calculate zakat base that fairly reflects the reality of Zakat Payer's business activity in light of circumstances and facts related to the case and information available at ZATCA, either



through documented evidence provided by Zakat Payer or by direct and continuous access to any information that has a direct relation to Zakat Payer and maintained by third party and reveals the volume of imports, contracts, labor, loans and obtained subsidies.

On Monday, 07/02/2022 AD, the Department held its session remotely to consider the Case. At that session, the Plaintiff (...) was present, Pursuant to ID No. (...). Also was present the Defendant's Representative (...), holder of National ID No. (...), under POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, dated ../.../.. AH. Having asked parties to the Case about what they would like to add, they were satisfied with their earlier submissions. Accordingly, the Department decided to adjourn the session for deliberation before adjudication.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form: the Plaintiff's purpose of this Case is to cancel ZATCA's Decision regarding the estimated Zakat assessment for 1429 AH. Since this dispute is considered one of the tax disputes that fall within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH and given that the Case was filed with valid Grounds, by an eligible party, and within the legally prescribed period, the Case is to be accepted in form.

On merits: Upon careful examination of the documents included in the Case file and the requests, defenses, and arguments raised by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1429 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to cancel the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Moreover, Article (13.6) of the Implementing Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH states: "6. Estimate zakat base consists of the following unless Zakat Payer's declaration shows a larger base: A. Working capital shall be determined by any available means, whether through the commercial register, company contracts and articles of association or any other supporting document. If it turns out that the actual working capital differs from the same, ZATCA shall be entitled to determine it in proportion to the volume of activity and the number of capital cycles according to industry, trade or business norms. "b. Net profits realized during the year, which are estimated at a minimum of 15% of total revenues...". Based on the foregoing and upon reviewing the documents submitted in the Case file, it is evident that the Plaintiff has submitted five certificates of commercial register cancellation. One of these is for the main register, which was canceled on 18/02/1436 AH, and the remaining four are for branches that were canceled on 04/03/1437 AH, 24/05/1435 AH, and 03/08/1435 AH. ZATCA has not specified which register it based its assessment on. Given that the Plaintiff is claiming that he is not subject to Zakat because he has ceased practicing the activity, and upon reviewing the estimated assessment issued by ZATCA, it is clear that the Plaintiff was assessed based on the capital shown in the commercial register. Although the Plaintiff has provided proof of the cancellation of the commercial register, he has not provided any evidence to support its claim of ceasing practice of activity. Therefore, the Department decided to amend



ZATCA's action by assessing the Plaintiff based on the capital recorded in the existing commercial registers.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision

Amend ZATCA's procedure by basing Zakat assessment on the capital recorded in the active commercial registers.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

First Department for Determination of Income Tax Violations and Disputes In governorate Jeddah

Decision No. IZJ-2022-316
Case No. Z-24499-2020

Key words:

Zakat - Estimated - Categories Subject to Rules of Calculating Zakat for Estimate Taxpayers - Revenue Estimation - Sales Declared in VAT Returns - Capital Estimation

Abstract

Zakat Payer is requesting cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 1440 AH. Zakat Payer contests the Defendant's action of conducting an estimated assessment, arguing that ZATCA relied on VAT returns to estimate Zakat Payer's Zakat base and that ZATCA calculated Zakat Payer's expenses at 85%, whereas if the tax-deductible expenses were considered, they would constitute at least 95%. Moreover, if non-tax-deductible expenses were considered, the result would be a net loss for the year. The Department has established that the Defendant issued the estimated Zakat assessment for 1440 AH, and also found that the Defendant applied the equation to the sales declared in the VAT returns submitted by Zakat Payer. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), (ID No. ...) has filed objection to ZATCA's Decision regarding the estimated Zakat assessment for 1440 AH. The Plaintiff contests the Defendant's action of conducting an estimated assessment, arguing that ZATCA relied on VAT returns to estimate Zakat Payer's Zakat base and that ZATCA calculated Zakat Payer's expenses at 85%, whereas if the tax-deductible expenses were considered, they would constitute at least 95%. Moreover, if non-tax-deductible expenses were considered, the result would be a net loss for the year. The Plaintiff requests that the assessment be amended to reflect its actual profits.

Upon reviewing the statement of claim, the Defendant stated that its Decision was in compliance with Articles (3) and (4) of the Rules of Calculating Zakat for Estimate Taxpayers, issued by Minister of Finance's Decision No. (852) dated 28/02/1441 AH, where zakat base was calculated based on VAT returns. Accordingly, ZATCA exercised



its power granted to it pursuant to that, which authorizes it to hold Zakat Payer accountable in an estimated manner according to the information and data that ZATCA has the right, according to the powers granted to it by the law, to refer to in order to be able to calculate zakat base that fairly reflects the reality of Zakat Payer's activity in light of the circumstances and facts related to the case and information available about Zakat Payer to ZATCA, either through what Zakat Payer provides of documented evidence and indications, or by referring directly and continuously to any information directly related to Zakat Payer that is kept by a third party, showing the size of Zakat Payer's imports, contracts, workers, and loans and subsidies it has received. The Esteemed Committee can be provided with documents to support this claim upon request. Thereupon, ZATCA confirms that its Decision subject matter of the Case is based on valid legal Grounds as stated in its reasoning. In addition, Plaintiff shall prove Decision invalidity.

On Monday, 14/02/2022 AD, the Department held a remote session to hear the Case. However, neither the Plaintiff nor its Representative was present, despite being duly notified of the session date. Representative of the Defendant, (...) was present, Holding ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated/../. AH. Having reviewed the Case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form: the Plaintiff seeks by this Case to cancel ZATCA's Decision regarding the estimated Zakat assessment for 1440 AH, and given that this dispute is a tax dispute, it falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a party with legal capacity and within the prescribed statutory period, it is incumbent upon this Department to accept the Case in form.

On merits: Upon careful examination of the documents included in the Case file and the requests, defenses, and arguments raised by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1440 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Moreover, Article (3) of the Rules of Calculating Zakat for Estimate Taxpayers, issued by Ministry of Finance Decision No. (852) dated 28/02/1441 AH, states: "The Zakat base of Zakat Payer subject to these rules shall be evaluated by identifying capital that is appropriate to the size of Zakat Payer's activity, according to the following equation: $[(\text{Sales}/8) + (\text{Sales} \times 15\%)]$ and not less than the capital stated in the commercial register or the licenses required for the activity or any other documents through which the Authority can determine the capital". Based on the foregoing, and upon reviewing the documents and facts of the Case, and since the Plaintiff falls into the category of taxpayers subject to Rules of Calculating Zakat for Estimate Taxpayers, the Defendant has the right to collect information and calculate the Plaintiff's



Zakat using the estimated method in accordance with those rules that stipulate estimating the profits for the Plaintiff's activity at a rate of 15% of the sales declared in the VAT returns, and estimating the capital by dividing those sales by 8. Upon reviewing the disputed estimated assessment, it is clear that the Defendant has applied the above equation to the sales declared in the VAT returns submitted by the Plaintiff, which indicates the correctness of ZATCA's procedure. As for the Plaintiff's request to consider expenses when conducting the estimated assessment, calculating the Plaintiff's profit at a rate of 15% means that its estimated expenses constitute 85% of its revenue. Based on the foregoing, the Department decided to reject the Plaintiff's objection to estimated Zakat assessment for 1440 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision

Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat assessment for 1440 AH.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-317
Case No. Z-32104-2020

Key words:

Zakat - Estimated - Commercial Register - Capital Shown in Commercial Register - Calculation of Zakat Base Based on VAT Sales

Abstract

Zakat Payer requests canceling ZATCA Decision regarding estimate zakat assessment for 1436. Zakat Payer contests the Defendant's action of conducting an estimated assessment, demanding that this action be amended, given that ZATCA has calculated the estimated Zakat for 1436 AH at (SAR 2,500) instead of (SAR 500). The Department has established that the Defendant issued the estimated Zakat assessment for 1436 AH, and that Zakat Payer has not submitted supporting documents for his claim that he did not practice the activity. Additionally, it has been found that the capital, according to the commercial register, is (SAR 20,000), and therefore due Zakat is (SAR 500). Therefore, the Department decided to amend the Defendant's action.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: The Plaintiff (...), (ID No. ...) filed an objection to ZATCA's estimated Zakat assessment for 1436 AH. The Plaintiff contests the Defendant's action of conducting an estimated assessment, given that ZATCA calculated the estimated Zakat for 1436 AH at (SAR 2,500) instead of (SAR 500). The Plaintiff confirmed that there were no sales during 1436 AH and that he did not have any commercial activity on electronic platforms during 1436 AH. Additionally, he does not have any employees during 1436 AH. It is worth noting that the estimated Zakat of (SAR 500) has been assessed from 1434 AH until 1440 AH and has been paid.

Upon reviewing the statement of claim, the Defendant stated that its Decision was in compliance with Articles (3) and (4) of the Rules of Calculating Zakat for Estimate Taxpayers, issued by Minister of Finance's Decision No. (852) dated 28/02/1441 AH, where zakat base was calculated based on VAT returns. Accordingly, ZATCA exercised its power granted to it pursuant to that, which authorizes it to hold Zakat Payer accountable in an estimated manner according to the information and data that ZATCA



has the right, according to the powers granted to it by the law, to refer to in order to be able to calculate zakat base that fairly reflects the reality of Zakat Payer's activity in light of the circumstances and facts related to the case and information available about Zakat Payer to ZATCA, either through what Zakat Payer provides of documented evidence and indications, or by referring directly and continuously to any information directly related to Zakat Payer that is kept by a third party, showing the size of Zakat Payer's imports, contracts, workers, and loans and subsidies it has received. The Esteemed Committee can be provided with documents to support this claim upon request. Thereupon, ZATCA confirms that its Decision subject matter of the Case is based on valid legal Grounds as stated in its reasoning. In addition, Plaintiff shall prove Decision invalidity.

On Monday, 14/02/2022 AD, the Department held a remote session to hear the Case. However, neither the Plaintiff nor its Representative was present, despite being duly notified of the session date. Representative of the Defendant, (...) was present, holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .. / .. / ... AH. Having reviewed the Case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form, the Plaintiff seeks by this Case to cancel ZATCA's Decision regarding the estimated Zakat assessment for 1436 AH, and given that this dispute is a tax dispute, it falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a party with legal capacity and within the prescribed statutory period, it is incumbent upon this Department to accept the Case in form.

On merits, Upon careful examination of the documents contained in the Case file and the requests, defenses, and arguments presented by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1436 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Article (13.6/a) of the Implementing Regulations for Zakat Collection stipulates: "6. Estimate zakat base consists of the following unless Zakat Payer's declaration shows a larger base: a. Working capital, which shall be determined by any available method, whether from the commercial register, company contracts and bylaws, or any other supporting document. If it appears that the actual working capital differs, ZATCA shall determine it in a manner consistent with the size of the activity and the number of capital cycles according to the custom in each industry, trade, or business". Additionally, Article (20.3) of the same Regulations stipulates: "The burden of proof regarding the accuracy of the items listed in the Zakat payer's declaration, as well as any other data, lies with the Tax Payer. In case of the Zakat Payer's failure to prove the accuracy of the information reported, the Authority may disallow such item not proven to be correct by Zakat Payer, or otherwise raise assessment on deemed basis at the



Authority's discretion in view of the surrounding circumstances, facts and information available with the Authority". Based on the foregoing, and upon reviewing the documents of the Case file, it appears that the Plaintiff submitted a copy of C.R. No. (...) dated ../../... AH. The Plaintiff did not submit documents supporting its non-exercise of the activity, nor did it provide anything to prove the absence of sales and revenue for that year. Furthermore, upon reviewing the estimated assessment issued by ZATCA, it appears that the Plaintiff was accounted for based on the capital appearing in the C.R., and it also appears that the capital based on the C.R. is (SAR 20,000), and therefore the due Zakat is (SAR 500). As such, the Department decided to amend the Defendant's procedure regarding the estimated Zakat assessment for 1436 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision

Amend the Defendant's procedure regarding the estimated Zakat assessment for 1436 AH. The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-318
Case No. Z-25035-2020

Key words:

Zakat - Estimated - Zakat base - Categories Subject to Rules of Calculating Zakat for Estimate Taxpayers - Capital Recorded in Commercial Register - Sales Declared in VAT Returns

Abstract

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 1440 AH. Zakat Payer is objecting to the Defendant's action of conducting an estimated assessment, as an income amount of (SAR 80,571) was calculated, while the Enterprise did not operate in that year. Since it has been proven to the Department that the Defendant issued an estimated Zakat assessment for 1440 AH, and since Zakat Payer falls into the category of Zakat Payers subject to Rules of Calculating Zakat for Estimate Taxpayers, the Defendant has the right to collect information and calculate Zakat Payer's Zakat using the estimated method. Regarding Zakat Payer's claim of not conducting any business activities, it has failed to provide sufficient evidence to support its claim. As such, the Department, hereby, ruled to dismiss Zakat Payer's objection.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summarized as follows: The Plaintiff (...), (ID No. ...), has filed an objection to the estimated Zakat assessment for 1440 AH issued by ZACAT. The Plaintiff objects to the Defendant's action of Conducting an estimated assessment, as an income amount of (SAR 80,571) was calculated, while the Enterprise did not operate in that year, and a capital of (SAR 310,000) was calculated, whereas the actual capital was (SAR 10,000), resulting in a Zakat base of (SAR 310,000) and a due amount of (SAR 7,750). Upon reviewing the statement of claim, the Defendant stated that its Decision was in compliance with Articles (3) and (4) of the Rules of Calculating Zakat for Estimate Taxpayers, issued by Minister of Finance's Decision No. (852) dated 28/02/1441 AH, where zakat base was calculated based on VAT returns. Accordingly, ZATCA exercised



its power granted to it pursuant to that, which authorizes it to hold Zakat Payer accountable in an estimated manner according to the information and data that ZATCA has the right, according to the powers granted to it by the law, to refer to in order to be able to calculate zakat base that fairly reflects the reality of Zakat Payer's activity in light of the circumstances and facts related to the case and information available about Zakat Payer to ZATCA, either through what Zakat Payer provides of documented evidence and indications, or by referring directly and continuously to any information directly related to Zakat Payer that is kept by a third party, showing the size of Zakat Payer's imports, contracts, workers, and loans and subsidies it has received. The Esteemed Committee can be provided with documents to support this claim upon request. Thereupon, ZATCA confirms that its Decision subject matter of the Case is based on valid legal Grounds as stated in its reasoning. In addition, Plaintiff shall prove Decision invalidity.

On Monday, 14/02/2022 AD, the Department held a remote session to hear the Case. However, neither the Plaintiff nor its Representative was present, despite being duly notified of the session date. Representative of the Defendant, (...) was present, holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .. / .. / ... AH. Having reviewed the Case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1440, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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: Upon careful examination of the documents included in the Case file and the requests, defenses, and arguments raised by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1440 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Moreover, Article (3) of the Rules of Calculating Zakat for Estimate Taxpayers, issued by Ministry of Finance Decision No. (852) dated 28/02/1441 AH, states: "The Zakat base of Zakat Payer subject to these rules shall be evaluated by identifying capital that is appropriate to the size of Zakat Payer's activity, according to the following equation: $[(\text{Sales}/8) + (\text{Sales} \times 15\%)]$ and not less than the capital stated in the commercial register or the licenses required for the activity or any other documents through which the authority can determine the capital". Based on the foregoing, and upon reviewing the documents and facts of the Case, and since the Plaintiff falls into the category of taxpayers subject to Rules of Calculating Zakat for Estimate Taxpayers, the Defendant has the right to collect information and calculate the Plaintiff's



Zakat using the estimated method in accordance with the provisions of Article (3), which indicated that the assessment of the Plaintiff's zakat base is according to the equation stated in the aforementioned article, which is $[(\text{Sales}/8) + (\text{Sales} \times 15\%)]$ and not less than the capital stated in the commercial register. In the absence of accurate information reflecting the size of the Plaintiff's activity, the Defendant has the right to assess or reassess on an estimated basis if data or information appears that reflects the actual size of the Plaintiff's activity, such as through the sales declared in VAT returns. Regarding the Plaintiff's claim of not conducting any business activities, it has failed to provide sufficient evidence to support its claim. Therefore, it has been proven that ZATCA's procedure is valid, and based on the foregoing, the Department has decided to reject the Plaintiff's objection to the estimated Zakat assessment for 1440 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:
C.

Decision:

Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat assessment for 1440 AH.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-319
Case No. Z-26126-2020

Key words:

Zakat - Estimated - Value Added Sales - Capital - Commercial Records - Categories Not Required to Keep Regular Books and Records - Estimated Profit

Abstract

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 1439 AH. Zakat Payer is objecting to the Defendant's action of conducting an estimated assessment, arguing that the Defendant incorrectly applied a 15% rate to the VAT sales, adding to it a capital amount of (SAR 4,340,000) as per the commercial records. The Plaintiff asserts that this is incorrect and adds that it has additional records showing a total capital of (SAR 12,400,000). The Department has established that the Defendant issued an estimated Zakat assessment for 1439 AH. It also appears that Zakat Payer belongs to categories not required to keep systematic books and records, as such, the Defendant has the right to collect information and calculate Zakat for Zakat Payer using the estimated method. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- Paragraph (6) and Paragraph (6/b) of Article (13) of [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), (ID No.) filed an objection to ZATCA's Decision regarding the estimated Zakat assessment for 1439 AH. Zakat Payer is objecting to the Defendant's action of conducting an estimated assessment, arguing that the Defendant incorrectly applied a 15% rate to the VAT sales, adding to it a capital amount of (SAR 4,340,000) as per the commercial records. The Plaintiff asserts that this is incorrect and adds that it has additional records showing a total capital of (SAR 12,400,000).

Upon reviewing the statement of claim, the Defendant stated that its Decision is in accordance with the provisions of Article (13) of the Implementing Regulations for Zakat Collection issued by Ministerial Decision No. 2082 on 01/06/1438 AH. Zakat base was



calculated based on a profit margin of 15% of Zakat Payer's VAT sales, in addition to the total capital recorded in the commercial registers.

On Monday, 14/02/2022 AD, the Department held a remote session to hear the Case. However, neither the Plaintiff nor its Representative was present, despite being duly notified of the session date. Representative of the Defendant, (...) was present, holder of National ID No. (...), appeared pursuant to POA No. (.), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated ../ ../ ... AH. Having reviewed the Case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds

Having perused Zakat Law promulgated by Royal Decree No. (17/28/577) dated 14/03/1376 AH, and its Implementing Regulations issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, as amended, and the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) dated 11/06/1425 AH, as amended, and Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1439, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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, Upon careful examination of the documents contained in the Case file and the requests, defenses, and arguments presented by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1439 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Article (13.6) of the Implementing Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH stipulates: "6. Estimate zakat base consists of the following unless Zakat Payer's declaration shows a larger base: A. Working capital shall be determined by any available means, whether through the commercial register, company contracts and articles of association or any other supporting document. If it turns out that the actual working capital differs from the same, ZATCA shall be entitled to determine it in proportion to the volume of activity and the number of capital cycles according to industry, trade or business norms. "b. Net profits realized during the year, which are estimated at a minimum of 15% of total revenues...". Based on the foregoing, and upon reviewing the data submitted by both parties, and since the Plaintiff belongs to categories not required to keep systematic books and records, the Defendant has the right to collect information and calculate Zakat for the Plaintiff using the estimated method, pursuant to paragraph (6/b) of Article 13 of the Regulations. According to the information that reflects the true nature and reality of the Plaintiff's activity, upon reviewing the estimated assessment that is the subject of the objection, it is clear that the Defendant has applied an estimated profit margin of 15%, which indicates the correctness of the Defendant's procedure regarding the profit margin applied in the disputed estimated assessment. Therefore, the Department decided to reject the Plaintiff's objection.



For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat assessment for 1439AH.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

First Department for Determination of Income Tax Violations and Disputes

Decision No. IZJ-2022-320

Case No. I-26755-2020

Key words:

Zakat - Estimated - Industrial Financing Amounts - Calculating Zakat Base Using Estimated Method - Capital Recorded in Commercial Register - Categories not Required to Keep Systematic Books and Records

Abstract

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 1438 AH. Zakat Payer objects to the Defendant's action of conducted an estimated assessment, arguing that the establishment is small with only (6) employees and that the overall economy has declined among customers, resulting in a lack of sufficient income for the establishment, as its annual income does not exceed one hundred thousand Riyals. Additionally, Zakat Payer cites increases in taxes on manufactured goods, passports, and work permits. The Department has established that the Defendant issued an estimated Zakat assessment for 1438 AH. It also appears that the Defendant has estimated zakat base according to the rule for factories and by taking into account the capital recorded in the commercial register, and that Zakat Payer belongs to categories not required to keep systematic books and records. As such, the Defendant has the right to collect information and calculate Zakat payer's Zakat using the estimated method. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- Paragraph (8) and Paragraph (2) of Clause (Third) of Article (13) and Paragraph (3) of Article (20) of [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), (ID No.) is objecting to ZATCA's Decision regarding the estimated Zakat assessment for 1438 AH. The Plaintiff is contesting the Defendant's action of conducting an estimated assessment, arguing that the establishment is small with only (6) employees and that the overall economy has declined among customers, resulting in a lack of sufficient income for the establishment, as its annual income does not exceed one hundred thousand Riyals. Additionally, Zakat Payer cites increases in taxes on manufactured goods, passports, and work permits.



Upon reviewing the statement of claim, the Defendant responded by stating that Zakat Payer was assessed in accordance with the industrial financing amounts up until 1437 AH, based on a rate of 25% of the paid-up capital, as per Paragraph (10) of Clause (Third) of Article (13) of the Implementing Regulations for Zakat Collection. However, Zakat Payer objected and requested to be assessed based on the actual situation. Consequently, a field inspection committee was formed on 25/08/1438 AH to finalize Zakat Payer's status based on the actual situation as per Zakat Payer's request. A detailed report was prepared on the activities and their full status, and the committee concluded that the assessment should be amended for the period from 1434 AH to 1437 AH based on the committee's estimation.

On Monday, 14/02/2022 AD, the Department held a remote session to hear the Case. However, neither the Plaintiff nor its Representative was present, despite being duly notified of the session date. Representative of the Defendant, (...) was present, holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, Dated .././.. AH. Having reviewed the Case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1438, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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, Upon careful examination of the documents contained in the Case file and the requests, defenses, and arguments presented by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1438 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Article (13.8) of the Implementing Regulations for Zakat Collection stipulates: "When determining zakat base using the estimated method, the Authority collects information that enables it to calculate zakat base that fairly reflects Zakat Payer's actual activity in light of the circumstances, facts related to the case, and information available to the Authority about Zakat Payer through the evidence and clues provided by Zakat Payer, as well as through field inspections and examinations conducted by the Authority, and any information obtained from other parties such as Zakat Payer's import volume, contracts, employees, loans, and grants". Paragraph (2) of Clause (Third) of Article 13 of the Implementing Regulations for Zakat Collection states: "For factories that do not have regular books and records, their working capital shall be estimated at not less than twenty-five percent of the paid-up capital as per the factory establishment license, plus an estimated net profit of fifteen percent of the factory's gross revenue, unless Zakat



Payer proves that all of its capital has been used in fixed assets". Additionally, Article (20.3) of the Implementing Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH stipulates: "The zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the zakat payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it". Based on the foregoing and upon reviewing the data submitted by both parties, the dispute lies in the Plaintiff's objection to the percentage applied in calculating zakat base using the estimated method, as well as the existence of losses and expenses incurred by the Company that the Defendant did not take into account when estimating zakat base for 1438 AH. From the details of the Defendant's response, it appears that the Defendant has estimated zakat base according to the rules for factories such as stone factory and sterilization factory, and has taken into account the capital recorded in the commercial register for stone products sales activity and veterinary drug sales activity. Since the Plaintiff belongs to the categories not required to keep regular books and records, the Defendant has the right to collect information and calculate Zakat for the Plaintiff using the estimated method, in accordance with Paragraph (6/b) of Article 13 of the Regulations, based on the information that reflects the true nature and reality of the Plaintiff's activity. As such, the Department established the correctness of the Defendant's procedure and rejection of the Plaintiff's objection.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat assessment for 1438 AH.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-321
Case No. Z-28345-2020

Key words:

Zakat - Estimated - Revenues for Period from VAT Returns - Categories Subject to Rules of Calculating Zakat for Estimate Taxpayers - Revenue Estimation - Sales Declared in VAT Returns - Capital Estimation

Abstract

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 1441 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment, arguing that the nature of the establishment's activity was not considered, as its activity is the sale of food supplies, with an average profit margin not exceeding 10% of the value of sales. Since it has been proven to the Department that the Defendant issued an estimated Zakat assessment for 1441 AH, and since Zakat Payer falls into the category of Zakat Payers subject to Rules of Calculating Zakat for Estimate Taxpayers, the Defendant has the right to collect information and calculate Zakat Payer's Zakat using the estimated method. It appears that the Defendant has applied the equation to the sales declared in the VAT returns submitted by Zakat Payer. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)
 - [Implementing Regulations of Income Tax Law issued pursuant to Minister of Finance Decision No. \(1535\) dated 11/06/1425 AH](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), (ID No....), has filed an objection to ZATCA's Decision regarding the estimated Zakat assessment for 1441 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment, arguing that the nature of the establishment's activity was not taken into account. The Plaintiff's activity involves the sale of food supplies, and average profit margin does not exceed 10% of the sales value. The amount was estimated based on the total revenue for the period as per the VAT returns, without considering the total purchases during the period, as well as other expenses such as rent, electricity bills, salaries, and other operating expenses. Therefore, the Plaintiff is requesting a reduction in the estimated Zakat amount.



Upon reviewing the statement of claim, the Defendant stated that its Decision is in accordance with Articles 3 and 4 of Rules of Calculating Zakat for Estimate Taxpayers, issued by Ministry of Finance Decision No. (852) dated 28/02/1441 AH, (based on VAT sales).

On Monday, 14/02/2022 AD, the Department held a remote session to hear the Case. However, neither the Plaintiff nor its Representative was present, despite being duly notified of the session date. Representative of the Defendant, (...) was present, holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, Dated ../ ../ ... AH. Having reviewed the Case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1441, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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, Upon careful examination of the documents contained in the Case file and the requests, defenses, and arguments presented by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1441 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Article (3) of the Rules of Calculating Zakat for Estimate Taxpayers, issued by Ministry of Finance Decision No. (852) dated 28/02/1441 AH, states that "Zakat base for a Zakat Payer subject to these rules is estimated by determining a capital that is commensurate with the size of Zakat Payer's activity according to the following equation: $[(\text{Sales}/8) + (\text{Sales} \times 15\%)]$ and not less than the capital stated in the commercial register or the licenses required for the activity or any other documents through which the authority can determine the capital" Based on the foregoing, and upon reviewing the documents and facts of the Case, and since the Plaintiff falls into the category of taxpayers subject to Rules of Calculating Zakat for Estimate Taxpayers, the Defendant has the right to collect information and calculate the Plaintiff's Zakat using the estimated method in accordance with those rules that stipulate estimating the profits for the Plaintiff's activity at a rate of 15% of the sales declared in the VAT returns, and estimating the capital by dividing those sales by 8. Upon reviewing the disputed estimated assessment, it is clear that the Defendant has applied the above equation to the sales declared in the VAT returns submitted by the Plaintiff, which indicates the correctness of ZATCA's procedure. As for the Plaintiff's request to consider expenses when conducting the estimated assessment, calculating the Plaintiff's profit at a



rate of 15% means that its estimated expenses constitute 85% of its revenue. Based on the foregoing, the Department decided to reject the Plaintiff's objection.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat assessment for 441AH.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-322
Case No. Z-28609-2020

Key words:

Zakat - Estimated - Zakat Base - Sales Declared in VAT Returns

Abstract

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 1441 AH. The Plaintiff is objecting to the Defendant's action of conducted an estimated assessment, arguing that neither rent, salaries, nor general expenses were deducted from zakat base. The Department has established that the Defendant issued an estimated Zakat assessment for 1441 AH. It also appears that Zakat Payer belongs to categories that are subject to Rules of Calculating Zakat for Estimate Taxpayers, as such, the Defendant has the right to collect information and calculate Zakat for Zakat Payer using the estimated method. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), (ID No.) filed an objection to ZATCA's Decision regarding the estimated Zakat assessment for 1441 AH. The Plaintiff is objecting to the Defendant's action of conducted an estimated assessment, arguing that neither rent, salaries, nor general expenses were deducted from zakat base. Upon reviewing the statement of claim, the Defendant stated that its Decision is in accordance with Articles 3 and 4 of Rules of Calculating Zakat for Estimate Taxpayers, issued by Ministry of Finance Decision No. (852) dated 28/02/1441 AH, based on VAT sales.

On Monday, 14/02/2022 AD, the Department held its session remotely to consider the Case. At that session, the Plaintiff (...) was present, ID No. (...), In addition, the Defendant's Representative (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated/..../..../..AH. Having asked parties to the Case about what they would like to add, they were satisfied



with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation before adjudication.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1441, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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, Upon careful examination of the documents contained in the Case file and the requests, defenses, and arguments presented by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1441 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Article (3) of the Rules of Calculating Zakat for Estimate Taxpayers, issued by Ministry of Finance Decision No. (852) dated 28/02/1441 AH, states that "Zakat base for a Zakat Payer subject to these rules is estimated by determining a capital that is commensurate with the size of Zakat Payer's activity according to the following equation: $[(\text{Sales}/8) + (\text{Sales} \times 15\%)]$ and not less than the capital stated in the commercial register or the licenses required for the activity or any other documents through which the authority can determine the capital" Based on the foregoing, and upon reviewing the documents and facts of the Case, and since the Plaintiff falls into the category of taxpayers subject to Rules of Calculating Zakat for Estimate Taxpayers, the Defendant has the right to collect information and calculate the Plaintiff's Zakat using the estimated method in accordance with those rules that stipulate estimating the profits for the Plaintiff's activity at a rate of 15% of the sales declared in the VAT returns, and estimating the capital by dividing those sales by 8. Upon reviewing the disputed estimated assessment, it is clear that the Defendant has applied the above equation to the sales declared in the VAT returns submitted by the Plaintiff, which indicates the correctness of ZATCA's procedure. As for the Plaintiff's request to consider expenses when conducting the estimated assessment, calculating the Plaintiff's profit at a rate of 15% means that its estimated expenses constitute 85% of its revenue. Based on the foregoing, the Department decided to reject the Plaintiff's objection.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat assessment for 441AH.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and



enforceable as stipulated by 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.



Key words:

Zakat - Estimated - Zakat Declaration- COVID-19 Pandemic - Sales Declared in VAT Returns - Capital Estimation - Revenues

Abstract

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 1441 AH. Zakat Payer is objecting to the Defendant's action of conducting an estimated assessment, arguing that there are existing accounts that can be relied on upon request. The Department has established that the Defendant issued an estimated Zakat assessment for 1441 AH. It also appears that Zakat Payer belongs to categories that are subject to Rules of Calculating Zakat for Estimate Taxpayers, as such, the Defendant has the right to collect information and calculate Zakat for Zakat Payer using the estimated method. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
 - [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), (ID No.) filed an objection to ZATCA's Decision regarding the estimated Zakat assessment for 1441 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment, arguing that there are existing accounts that can be relied on upon request, and explaining that the reason for the delay in filing the Zakat declaration was COVID-19 pandemic.

Upon reviewing the statement of claim, the Defendant stated that its Decision is in accordance with Articles 3 and 4 of Rules of Calculating Zakat for Estimate Taxpayers, issued by Ministry of Finance Decision No. (852) dated 28/02/1441 AH, based on VAT sales.

On Monday, 14/02/2022 AD, the Department held its session remotely to consider the Case. At that session, the Plaintiff (...) was present, ID No. (...), In addition, the Defendant's Representative (...), ID No. (.....) appeared pursuant to POA No. (.), issued by ZATCA Vice Governor for Legal Affairs, Dated ../..../..../..AH. Having asked parties to



the Case about what they would like to add, they were satisfied with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation before adjudication.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

As for the formal aspect, the Plaintiff moving this case to cancel ZATCA's Decision regarding the estimated Zakat assessment for 1441 AH, and since this dispute is considered one of the tax disputes that fall within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH and given that the Case was filed with valid Grounds, by an eligible party, and within the legally prescribed period, the case is to be accepted in form. On merits, Upon careful examination of the documents contained in the Case file and the requests, defenses, and arguments presented by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1441 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Article (3) of the Rules of Calculating Zakat for Estimate Taxpayers, issued by Ministry of Finance Decision No. (852) dated 28/02/1441 AH, states that "Zakat base for a Zakat Payer subject to these rules is estimated by determining a capital that is commensurate with the size of Zakat Payer's activity according to the following equation: $[(\text{Sales}/8) + (\text{Sales} \times 15\%)]$ and not less than the capital stated in the commercial register or the licenses required for the activity or any other documents through which the authority can determine the capital" Based on the foregoing, and upon reviewing the documents and facts of the Case, and since the Plaintiff falls into the category of taxpayers subject to Rules of Calculating Zakat for Estimate Taxpayers, the Defendant has the right to collect information and calculate the Plaintiff's Zakat using the estimated method in accordance with those rules that stipulate estimating the profits for the Plaintiff's activity at a rate of 15% of the sales declared in the VAT returns, and estimating the capital by dividing those sales by 8. Upon reviewing the disputed estimated assessment, it is clear that the Defendant has applied the above equation to the sales declared in the VAT returns submitted by the Plaintiff, which indicates the correctness of ZATCA's procedure. As for the Plaintiff's request to consider expenses when conducting the estimated assessment, calculating the Plaintiff's profit at a rate of 15% means that its estimated expenses constitute 85% of its revenue. Regarding Zakat Payer's request to be assessed based on its accounts and not using the estimated method for the assessment, while Zakat Payer has stated that it has accounts available upon request, it would be permissible to follow its choice of being assessed on that basis, however, there is no reason to accept its objection to the result of the estimated assessment when it is based on reasonable Grounds and justifications that took into account the nature and size of Zakat Payer's activity and the evidence that strongly suggests the accuracy of the estimate, taking into account the provisions of the instructions and rules governing this matter in light of the Decisions issued in this regard. It is not possible, under these circumstances, to accept Zakat Payer's dispute by requesting to be assessed based on its



statements, as it has waived that option which was available to it. Based on the foregoing, the Department decided to reject the Plaintiff's objection.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat assessment for 441AH.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-374
Case No. Z-19495-2020

Key words:

Zakat - Estimated - Failure to submit Declaration within Prescribed Period - Systematic Accounts - Financial Statements

Abstract

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding estimated Zakat assessment for the 2018, Zakat Payer is objecting to the Defendant's action of conducting an estimated assessment, arguing that ZATCA modified Zakat Payer's declaration without its knowledge and that the data provided in the declaration was incorrect. Zakat Payer further claims that it submitted its own correct declaration on 17/06/2020 and requests that this declaration be accepted. Regarding the issuance of the estimated Zakat assessment for 2018 by the Defendant, it has been established that the Defendant issued an estimated assessment on 20/4/2020. Zakat Payer filed an objection and submitted systematic accounts and audited financial statements on 17/06/2020. This means that Zakat Payer did not submit its declaration within the prescribed period. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- Paragraph (5/a) of Article (13) of [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summed up as follows: Mr....., (ID No..) in his capacity as Representative of Plaintiff/ Company (.....), C.R. No. (...), Under its AOA, objecting to ZATCA's Decision regarding estimated Zakat assessment for the 2018. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment, claiming that ZATCA modified Zakat Payer's declaration without its knowledge and that the data provided in the declaration was incorrect. Zakat Payer further claims that it submitted its own correct declaration on 17/06/2020 and requests that this declaration be adopted.

Upon reviewing the statement of claim to by the Defendant, ZATCA responded by explaining that Zakat Payer was assessed on an estimated basis due to its failure to submit its declaration and financial statements within the prescribed timeframe. In support of its action, ZATCA cited Article (13.5) of the Implementing Regulations for Zakat Collection



, which states: “ZATCA has the right to hold Zakat Payers accountable regarding estimated manner in order to oblige them to comply with legal requirements in the following cases: - A. Failure of Zakat Payer to submit its zakat declaration based on legal books and records on the regular date.

On Monday, 24/01/2022, the Department held a remote session to hear the Case. However, the Plaintiff's Representative was not present, despite being duly notified of the session date. Representative of the Defendant, (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, Dated ../ ../.. AH. Having reviewed the Case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

As for the formal aspect, the Plaintiff moving this case to cancel ZATCA's Decision regarding the estimated Zakat assessment for 2018, and since this dispute is considered one of the tax disputes that fall within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH and given that the Case was filed with valid Grounds, by an eligible party, and within the legally prescribed period, the case is to be accepted in form.

On merits, Upon careful examination of the documents contained in the Case file and the requests, defenses, and arguments presented by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 2018. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Article (13.5/a) of the Implementing Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH stipulates: “5. ZATCA shall be entitled to account Zakat Payers on estimate basis in order to oblige them to comply with legal requirements in the following cases: "a. Failure by Zakat Payer to submit its Zakat declaration based on systematic records and books within the prescribed period”. Based on all of the above, and upon reviewing the case file and its contents, including the defenses and documents, it is evident that the Defendant issued an estimated assessment on 20/04/2020. The Plaintiff filed an objection and submitted systematic accounts and audited financial statements on ../ ../..AD, which means that the Plaintiff did not submit its declaration within the prescribed period. Upon reviewing the reasons for the dispute, it became clear that the Plaintiff did not provide any justification for failing to comply with the prescribed period, which made the estimated assessment against it valid. Therefore, the Department decided to reject the Plaintiff's objection to the estimated Zakat assessment for 2018.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss the objection filed by the Plaintiff (... Company), C.R. No. (...), to estimate zakat assessment for 2018.



This Decision was issued in the presence of both parties in accordance with the provisions of Article 56 of the Law of Civil Procedures. The Department has set a thirty-day period for receiving a copy of the Decision via the website of the General Secretariat of the Zakat, Tax and Customs Committees. This Decision is considered final and enforceable as per Article 42 of the Tax Dispute and Violation Committee Procedures .



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-378
Case No. Z-75198-2021

Key words:

Zakat - Estimated - Cancellation of Commercial Records - Assessment Notice - Valid Commercial Records

Abstract

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 1432 AH. Zakat Payer is objecting to the Defendant's action of conducted an estimated assessment, arguing that Zakat Payer had canceled all commercial records in 1432 AH. Upon verification, the Department found that the Defendant had indeed issued the estimated Zakat assessment for 1432 AH. However, Zakat Payer had canceled its commercial records in the same year. Additionally, the Department determined that the current commercial records were issued in 1440 AH and 1441 AH. Therefore, the Department dismisses Zakat Payer's objection.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), (ID No....), has filed an objection to the estimated Zakat assessment for 1432 AH issued by ZATCA. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment, arguing that it had canceled all commercial records in 1432 AH. Upon issuing a new commercial registration in 1440 AH, it discovered outstanding dues for the years after 1432 AH, which it had not been notified of since it had no business activity during those years. The Plaintiff has attached both the canceled and current records, which include their issuance dates.

Upon reviewing the statement of claim to, the Defendant responded that the case is inadmissible in form due to the expiration of the prescribed period for objection.

On Wednesday, corresponding to 26/01/2022 AD, the Department held its session remotely to consider the Case. At that session, the Plaintiff (...) was present, ID No. (...), In addition, the Defendant's Representative (...), ID No. (.....) appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, Dated ../ ../ AH. During this session, the Plaintiff stated that it canceled all commercial records in ...AH, and upon



issuing a commercial register in ... AH with a new activity, it discovered the existence of dues for the years after ... AH which were not reported as it had no activity during these years. It attached the canceled and valid records that include its issuance dates. Upon questioning the Defendant's Representative about his response to the Plaintiff not practicing the activity during this period - and therefore not having a workplace to receive notifications through? Especially since the amendment letter did not state the mobile number - he responded by requesting a delay to respond to the Plaintiff's plea. Since Zakat assessment letter did not include the phone number sent to it as a notification of the assessment; therefore, it was not proven before the Department that the Plaintiff was notified of Zakat assessment for the disputed years. As such, the Department decided to reject the Defendant's argument in form and proceed with the Case on merits. Therefore, upon reviewing the Case file, it became clear to the Department that the Plaintiff canceled the commercial records in 1432 AH, and as for the valid commercial records, it became clear to the Department that the date of their issuance was in 1440 AH and 1441 AH. As such, the Department decided to adjourn the session for deliberation in preparation for issuing a Decision therein.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form, the Plaintiff is moving this case to cancel ZATCA's Decision regarding the estimated Zakat assessment for 1432 AH, and since this dispute is considered one of tax disputes that fall within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and since Zakat assessment letter did not include the phone number sent to it as a notification of the assessment; therefore, it was not proven before the Department that the Plaintiff was notified of Zakat assessment for the disputed years. As such, the Department decided to reject the defense presented by the Defendant in form and proceed with the Case on merits.

On merits, Having examined the documents of the Case, and after considering the requests, defenses, and pleas of the parties, the Department has found that the dispute lies in the issuance of the estimated Zakat assessment for 1432 AH by the Defendant. The Plaintiff objects to the Defendant's action of conducting an estimated assessment and demands its cancellation, while the Defendant argued that the Case is inadmissible in form. Upon reviewing the case file, it became clear to the Department that the Plaintiff canceled the commercial records in 1432 AH, and as for the valid commercial records, it became clear to the Department that the date of their issuance was in 1440 AH and 1441 AH, leading the Department to conclude by accepting the Plaintiff's objection to the estimated Zakat assessment.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Accept the objection filed by the Plaintiff (.....) (ID No.), regarding the estimated Zakat assessment for 1432.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of



Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-391
Case No. Z-52892-2021

Key words:

Zakat - Estimated - Capital in Commercial Records - Zakat Base

Abstract

Zakat Payer is requesting cancellation of ZATCA's Decision regarding estimated zakat assessment for 1439 AH. Zakat Payer is objecting to the Defendant's action of conducting an estimated assessment, arguing that it does not align with the capital amounts recorded in its commercial records. Furthermore, Zakat Payer claims that ZATCA's Decision was issued without a valid reason, rendering it null and void. It was established before the Department that the Defendant issued an estimated zakat assessment for 1439 AH. Furthermore, Zakat Payer stated that the capital amounts in the commercial records were not adjusted until after zakat assessment was conducted by the Defendant (ZATCA). Moreover, it became evident that the Defendant relied on the capital amounts recorded in the commercial records for its zakat assessment. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- Article (13.6) and Article (20.3) of [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), (ID No.), filed an objection to the estimated zakat assessment for 1439 AH, issued by ZATCA. The Plaintiff argues that the Defendant's estimated assessment does not align with the capital amounts recorded in its commercial records. Furthermore, the Plaintiff claims that ZATCA's Decision was issued without a valid reason, making it null and void. The Plaintiff also pointed out that the Enterprise has been inactive since its establishment and requested cancellation of ZATCA's Decision. However, ZATCA merely rejected the claim in form without addressing the Plaintiff's arguments on merits.

Upon reviewing the statement of claim, the Defendant responded by citing Article (3.1) of the Tax Dispute and Violation Committee Procedures, states that "ZATCA's Decisions shall be final and unappealable before any other agency in the following cases: (1) if Zakat Payer does not object to it within 60 days of receiving the Decision". Since ZATCA assessed Zakat Payer on .../.../... AH, and Zakat Payer did not file an objection until that



date, the objection is considered filed outside the prescribed period. Therefore, the Decision is now final and cannot be appealed.

On Monday,/... AD, the Department held its session remotely to consider the Case. At that session, the Plaintiff's Attorney (...), holder of National ID No. (...), appeared pursuant to the POA attached to the Case file. Also, attended the Defendant's Representative (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated/.. AH. Having asked parties to the Case about what they would like to add, they were satisfied with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation before adjudication.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form, the Plaintiff is moving this case to cancel ZATCA's Decision regarding the estimated Zakat assessment for 1439 AH, and since this dispute is considered one of the tax disputes that fall within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH and given that the Case was filed with valid Grounds, by an eligible party, and within the legally prescribed period, the case is to be accepted in form.

On merits, Upon careful examination of the documents of the Case file and the requests, defenses, and arguments presented by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1439 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to cancel the Defendant's procedure, while the Defendant has argued that the Case is inadmissible in form. Article (13.6) of the Implementing Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH stipulates: "6. Estimate zakat base consists of the following unless Zakat Payer's declaration shows a larger base: A. Working capital shall be determined by any available means, whether through the commercial register, company contracts and articles of association or any other supporting document. If it turns out that the actual working capital differs from the same, ZATCA shall be entitled to determine it in proportion to the volume of activity and the number of capital cycles according to industry, trade or business norms. b. The net profits realized during the year, which are estimated at a minimum of 15% of the total revenue" Additionally, Article (20.3) of the same Regulations, which states that: "The burden of proving validity of the items mentioned in taxpayer's Zakat declaration and any other data shall fall on the taxpayer. In the event that the taxpayer is unable to prove validity of the items mentioned in his declaration, ZATCA may not approve the item whose validity is not proven by the taxpayer or make an estimated assessment according to its discretion in light of the circumstances and facts related to the case and the information available thereto". Based on the foregoing, and given that the Plaintiff stated that the capital amounts in the commercial records were not adjusted until after zakat assessment was conducted by the Defendant (ZATCA). It became evident that the Defendant relied on the capital amounts recorded in the commercial records for zakat assessment, the Department therefore concludes by rejecting the Plaintiff's objection to the estimated zakat assessment.



For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat assessment.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-411
Case No. Z-2020-22373

Key words:

Zakat - Accounts - Profits - Revenue Difference to Adjusted Net Income - Revenue Difference - VAT Returns - Sales of Leased Sections

Abstract

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding zakat assessment for 2018. Zakat Payer is objecting to the Defendant's action of including profits from revenue differences to the adjusted net income. Zakat Payer claims that ZATCA has added undeclared revenue differences to the adjusted net profit for the year. Regarding item revenue difference, the Department found that Zakat Payer has not provided supporting documentation to substantiate its position regarding the disputed revenues. Therefore, the Department ruled to reject Zakat Payer's objection regarding item (revenue difference).

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- Paragraph (3) of Article (20) of [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summed up as follows: Mr....., (ID No..... ..), in his capacity as Representative of the Plaintiff (.....Co.), (CR No. ...) Under AOA, filed an objection to ZATCA's zakat assessment for 2018. The Plaintiff is objecting to the Defendant's action of including profits from revenue differences in the adjusted net income. The Plaintiff stated that ZATCA added undeclared revenue difference to the adjusted net profit for the year. The Plaintiff further stated that the differences in revenue between the financial statements and the VAT returns are due to the fact that parts of the supermarket are leased to third parties. The VAT for these leased sections is declared and paid through the Company's VAT returns, as explained by Representatives of ZATCA's hotline. Since these sales do not belong to the Company, they are not declared in the Plaintiff's financial statements. Consequently, the difference in revenue between the statements and VAT returns arises. Based on the foregoing, the Plaintiff has requested to cancel ZATCA's action.



Upon reviewing of the statement of claim, the Defendant responded by stating that, during the assessment, it added the difference resulting from the comparison of sales listed in the VAT returns and sales listed in the financial statements to the adjusted profit. ZATCA points out that its action of adding the difference was based on the data provided by the Plaintiff, as the Plaintiff itself voluntarily disclosed and declared the sales in the Value Added Tax. ZATCA does not believe that the disputed point would affect the validity and correctness of its action, as it is unreasonable for the Plaintiff to challenge the data that it has declared and disclosed in the statements it submitted to ZATCA.

On Monday, 14/02/2022, the Department held a remote session to hear the Case. However, the Plaintiff's Representative was not present, despite being duly notified of the session date. Representative of the Defendant, (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .. / .. / .. AH. Having reviewed the Case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds

Having taken cognizance of Zakat Law promulgated by Royal Decree No. (17/28/577) of 14/03/1376 AH, and its Implementing Regulations issued by the Minister of Finance's Decision No. (2082) dated: 01/06/1438 AH, as amended, and 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), dated 11/06/1425 AH, as amended, and the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040), dated 21/04/1441 AH. and the relevant Laws and regulations.

In form, the Plaintiff seeks by this Case to cancel ZATCA's Decision regarding Zakat assessment for 2018, and given that this dispute is a tax dispute, it falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes pursuant to Royal Order No. (26040), dated 21/04/1441 AH. Since the Case was filed by a party with legal capacity and within the prescribed statutory period, it is incumbent upon this Department to accept the Case in form.

On merits, upon the Department's review of the Case file, including the documents and the parties' claims and defenses, it has become clear that the dispute centers on the Defendant's issuance of zakat assessment for 2018. The Plaintiff is objecting to the Defendant's action of including profits from revenue differences to the adjusted net income and demands their deduction. Meanwhile, the Defendant has argued that during the assessment, it added the difference resulting from the comparison of sales listed in VAT returns and sales listed in the financial statements to the adjusted profit. Article (20.3) of the Implementing Regulations for Zakat Collection, issued by Ministerial Decision No. (2082), dated 01/06/1438 AH states: "The zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the zakat payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it". Based on the foregoing, and considering that the dispute over this item is a documentary dispute, and upon reviewing the Case file and its contents of defenses and documents, it is evidence that the Plaintiff has not provided supporting documents to its position regarding the disputed revenues. The Plaintiff has not provided reconciliations of VAT returns with sales of leased sections, nor has it provided evidence that it is collecting the tax on their behalf, as the lease contracts



submitted do not contain any agreement regarding VAT. Accordingly, the Department decided to reject the Plaintiff's objection to item (revenue difference).

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss objection filed by Plaintiff (... Company), (CR No. ...) Regarding item (revenue difference).

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.





Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-415
Case No. Z-24237-2020

Key words:

Zakat - Accounts - End of Service Gratuity Provision - Gratuities - Zakat Base - Adjusted Net Profit - Financial Statements

Abstract

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding zakat assessment for 2016. Zakat Payer's objection is limited to two items. Regarding the first item: End-of-service gratuity provision, Zakat Payer is objecting to the inclusion of the end-of-service gratuity provision in zakat base. Zakat Payer is claiming that expenses are recorded on an accrual basis, and if they are not paid or settled during the year, they are added to zakat base in the following year. As for Item Second, Gratuities, Zakat Payer is objecting to the non-deduction of gratuities. Zakat Payer is claiming that these are gifts given to trainees in the form of trophies and certificates of appreciation upon successful completion of training courses. Therefore, they are considered business expenses and should be deducted from zakat base. Considering item (end-of-service gratuity provision), the Department has determined that Zakat Payer has failed to provide the provision movement. Regarding item (gratuities), it is evident that Zakat Payer has not submitted supporting documents for the disputed expenses. Therefore, the Department decided to reject Zakat Payer's objection regarding items (End-of-Service Gratuity Provision) and (Gratuities).

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- Paragraph (9) of Clause (First) of Article (4), Paragraph (1/a) of Article (5), Paragraph (2) of Article (6), and Paragraph (3) of Article (20) of [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summed up as follows: Mr....., (ID No.....) In his capacity as Representative of the Plaintiff (.....Co.), (CR No. Pursuant to its AOA, the Plaintiff filed an objection to ZATCA's zakat assessment for 2016. The Plaintiff's objection is limited to two items. Regarding the first item: End-of-service gratuity provision, the Plaintiff is objecting to the inclusion of the end-of-service gratuity provision in zakat base. Zakat Payer is claiming Plaintiff objects expenses are recorded on an accrual basis, and if



they are not paid or settled during the year, they are added to zakat base in the following year. As for Item Second, Gratuities, the Plaintiff is objecting to the non-deduction of gratuities. Zakat Payer is Plaintiff objects these are gifts given to trainees in the form of trophies and certificates of appreciation upon successful completion of training courses. Therefore, they are considered business expenses and should be deducted from zakat base.

Having presented the statement of claim to Defendant, it responded as follows: with regard to the first item: End-of-service gratuity provision. Upon reviewing the objection and examining the explanation of the end-of-service gratuity provision in Zakat Payer's financial statements, it was found that the total provision created during 2016 amounted to (SAR 209,932). Moreover, the expense created for the end-of-service gratuity provision was not deducted from the adjusted net profit for 2016 and was instead added to Zakat base. Therefore, ZATCA's action was correct. For 2017, the expense created for the end-of-service gratuity provision was deducted from the adjusted net profit as it was considered a non-deductible expense. Consequently, Zakat Payer's objection is rejected based on Article (6.6) of the Implementing Regulations for Zakat Collection. As for Item Second: Gratuities, it was found upon assessment that the item was added to the adjusted net profit based on the data available in the financial statements. Zakat Payer provided a statement from the accounting system showing the opening balance, debit and credit movements during the year, and the closing balance. After reviewing the statement, it became clear that the expense was related to general miscellaneous expenses. Therefore, Zakat Payer's objection was rejected based on Article (6) of the Implementing Regulations for Zakat Collection, and in accordance with the provisions of Article (20.3).

On Sunday, corresponding to 13/02/2022 AD, the Department held a remote session to hear the Case. However, the Plaintiff's Representative was not present, despite being duly notified of the session date. Representative of the Defendant, (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, Dated ../../. AH. Having reviewed the Case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds

Having taken cognizance of Zakat Law promulgated by Royal Decree No. (17/28/577) of 14/03/1376 AH, and its Implementing Regulations issued by the Minister of Finance's Decision No. (2082) dated: 01/06/1438 AH, as amended, and 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), dated 11/06/1425 AH, as amended, and the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040), dated 21/04/1441 AH. and the relevant Laws and regulations.

In form, the Plaintiff seeks by this Case to cancel ZATCA's Decision regarding Zakat assessment for 2016, and given that this dispute is a tax dispute, it falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes pursuant to Royal Order No. (26040), dated 21/04/1441 AH. Since the Case was filed by a party with legal capacity and within the prescribed statutory period, it is incumbent upon this Department to accept the Case in form.

On Merits: Having taken cognizance of documents included in Case file, requests, defenses and pleas raised by the parties, the Department found that the dispute lies in the Defendant's issuance of zakat assessment for 2016. The Plaintiff's objection is limited to two specific items.



Regarding First Item: End-of-service gratuity provision, the Plaintiff is objecting to the inclusion of the end-of-service gratuity provision in zakat base. Zakat Payer is claiming Plaintiff objects expenses are recorded on an accrual basis, and if they are not paid or settled during the year, they are added to zakat base in the following year. However, the Defendant has argued that the expense created for the end-of-service gratuity provision was deducted from the adjusted net profit, as it was considered a non-deductible expense. Paragraph (9) of Clause (First) of Article (4) of the Implementing Regulations for Zakat Collection, issued by Ministerial Decision No. (2082), dated 01/06/1438 AH states: "The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 9-Provisions at the beginning of the year (excluding doubtful debt provisions for banks) after deducting the utilized portion during the year". Article (20.3) of the Implementing Regulations for Zakat Collection, issued by Ministerial Decision No. (2082), dated 01/06/1438 AH states: "The zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the zakat payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it". Based on the foregoing, it is evident that the dispute regarding this item is a documentary one. Upon reviewing the Case file, including the pleadings and documents, it is clear that the Plaintiff has failed to provide the provision movement, which would allow verification of the balance of provisions that have been held for a full lunar year and must be added to zakat base. Therefore, the Department decided to reject the Plaintiff's objection to the end-of-service gratuity provision.

As for Item Second: Gratuities, the Plaintiff is objecting to the non-deduction of gratuities. Zakat Payer is Plaintiff objects, these are gifts given to trainees in the form of trophies and certificates of appreciation upon successful completion of training courses. Therefore, they are considered business expenses and should be deducted from zakat base. In contrast, the Defendant has argued that it included this item in the adjusted net profit during the assessment, based on the data available in the financial statements. Zakat Payer has provided a statement from the accounting system showing the opening balance, debit and credit movements during the year, and the closing balance Article (5.1/a) of the Implementing Regulations for Zakat Collection, issued by Ministerial Decision No. (2082), dated 01/06/1438 AH, related to expense that may be deducted states: "Expenses ordinary and necessary for an entity to engage in business activity, whether paid or due, shall be deducted to determine the net result of the activity, subject to meeting the following criteria: a. Expenses should be actual expenses as supported by relevant documents and other evidential matter to enable the Authority to verify the accuracy of expenses, even if related to prior years". Paragraph (2) of Article (6) of the same Regulations related to deductible expenses states: "Expenses following which stipulates the Zakat Payer fails to prove by supporting documents or other evidential matter acceptable to the Authority". Additionally, Article (20.3) of the same Regulations states: "The burden of proof regarding the accuracy of the items listed in the Zakat payer's declaration, as well as any other data, lies with the Tax Payer. In case of the Zakat Payer's failure to prove the accuracy of the information reported, the Authority may disallow such item not proven to be correct by Zakat Payer, or otherwise raise assessment on deemed basis at the Authority's discretion in view of the surrounding circumstances, facts and information available with the Authority". Based on the foregoing, such expenses would be considered deductible if it is proven that they were actually incurred and supported by documentary evidence. Since the dispute regarding this item is a documentary one, and upon reviewing the documents in the Case file, it is evident that the Plaintiff has failed to provide the supporting documents for the disputed expenses. Therefore, the Department has decided to reject the Plaintiff's objection to item (gratuities).



For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

First: Reject the Plaintiff's objection to item (end-of-service gratuity provision).

Second: Reject Plaintiff's objection to item (gratuities).

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.





C.

Key words:

Zakat - Accounts - End of Service Gratuity - Gratuities - Leases - Loans - Zakat Base - Passage of One Lunar year

Abstract

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding zakat assessment for 2017. Zakat Payer's objection is limited to four items. Regarding the first item: end-of-service gratuity provision, Zakat Payer is objecting to the inclusion of the end-of-service gratuity provision in zakat base. Zakat Payer is claiming that expenses are recorded on an accrual basis, and if they are not paid or settled during the year, they are added to zakat base in the following year. As for Item Second: Gratuities, Zakat Payer is objecting to the non-deduction of gratuities. Zakat Payer is claiming that these are gifts given to trainees in the form of trophies and certificates of appreciation upon successful completion of training courses. Therefore, they are considered business expenses and should be deducted from zakat base. Third: Item (Profit/Loss of the Year): Leases. Zakat Payer is objecting to the inclusion of accrued leases in zakat base for 2017, arguing that they are current liabilities that have already been settled. Regarding the fourth item: Loans. Zakat Payer is objecting to the inclusion of accrued loans in zakat base for 2017, arguing that these are not loans but rather non-current related creditors. It intends to adjust this label in the financial statements for future years to be related creditors. With respect to item (end-of-service gratuity provision), the Department found that Zakat Payer failed to provide the provision movement, which is necessary to verify the balance of provisions that have been held for a full lunar year and must be added to zakat base. Regarding item (gratuities), it is evident that Zakat Payer failed to provide supporting documents for the disputed expenses. As for item (leases), Zakat Payer has not provided supporting documents to substantiate its objection. With regard to item (loans), the Department determined that the accrued loans, which Zakat Payer claimed to be balances of related creditors, are a source of financing and are treated as equity in terms of zakat treatment. Therefore, the Department ruled to reject the Defendant's objection regarding all items.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- Paragraph (5) and Paragraph (9) of Clause (First) of Article (4), Paragraph (1/a) of Article (5), Paragraph (2) of Article (6), and Paragraph (3) of Article (20) of



Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. (2082) dated 01/06/1438 AH.

Facts:

Facts of the case are summarized that (ID No. ...) In his capacity as Representative of the Plaintiff (.....Co.), (CR No.), Pursuant to its AOA, the Plaintiff filed an objection to ZATCA's zakat assessment for 2017. The Plaintiff's objection is limited to four items. Regarding the first item: End-of-service gratuity provision, the Plaintiff is objecting to the inclusion of the end-of-service gratuity provision in zakat base. Zakat Payer is claiming Plaintiff objects expenses are recorded on an accrual basis, and if they are not paid or settled during the year, they are added to zakat base in the following year. As for Item Second: Gratuities, the Plaintiff is objecting to the non-deduction of gratuities. Zakat Payer is Plaintiff objects these are gifts given to trainees in the form of trophies and certificates of appreciation upon successful completion of training courses. Therefore, they are considered business expenses and should be deducted from zakat base. Third: Item (Profit/Loss of the Year): Leases. The Plaintiff is objecting to the inclusion of accrued leases in zakat base for 2017, Plaintiff objects they are current liabilities that have already been settled. Regarding the fourth item: Loans. The Plaintiff is objecting to the inclusion of accrued loans in zakat base for 2017, Plaintiff objects these are not loans but rather non-current related creditors. It intends to adjust this label in the financial statements for future years to be related creditors.

Having presented the statement of claim to Defendant, it responded as follows: with regard to the first item: End-of-service gratuity provision. Upon reviewing the objection and examining the explanation of the end-of-service gratuity provision in Zakat Payer's financial statements, it was found that the total provision created during 2017 amounted to (SAR 74,750). Moreover, the expense created for the end-of-service gratuity provision was not deducted from the adjusted net profit for 2016 and was instead added to Zakat base. Therefore, ZATCA's action was correct. For 2017, the expense created for the end-of-service gratuity provision was deducted from the adjusted net profit as it was considered a non-deductible expense. Consequently, Zakat Payer's objection is rejected based on Article (6.6) of the Implementing Regulations for Zakat Collection. As for Item Second: Gratuities, it was found upon assessment that the item was added to the adjusted net profit based on the data available in the financial statements. Zakat Payer provided a statement from the accounting system showing the opening balance, debit and credit movements during the year, and the closing balance. After reviewing the statement, it became clear that the expense was related to general miscellaneous expenses. Therefore, Zakat Payer's objection was rejected based on Article (6) of the Implementing Regulations for Zakat Collection, and in accordance with the provisions of Article (20.3). Third: Item (Profit/Loss of the Year): Leases. Upon examining the objection and reviewing Zakat Payer's financial statements, it became evident that this item has completed a full lunar year. Moreover, Zakat Payer submitted a statement of account from its accounting system, detailing the opening balance, debits, credits, and closing balance for the year. Upon reviewing this statement, it is clear that the amount due was settled on (.../.../... AD). Therefore, Zakat Payer's objection was rejected based on Article 4, Clause (First) of the Implementing Regulations for Zakat Collection. Regarding the fourth item: Loans. Upon examining the objection and reviewing Zakat Payer's financial statements, it became evident that this item has completed a full lunar year. Therefore, Zakat Payer's objection was rejected based on Article 4, Clause (First), Paragraph (3), and Article 4, Clause (First), Paragraph (5) of the same Regulations.

On Sunday, corresponding to 13/02/2022 AD, the Department held a remote session to hear the Case. However, the Plaintiff's Representative was not present, despite being duly



notified of the session date. Representative of the Defendant, (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .. / .. / ... AH. Having reviewed the Case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds

Having taken cognizance of Zakat Law promulgated by Royal Decree No. (17/28/577) of 14/03/1376 AH, and its Implementing Regulations issued by the Minister of Finance's Decision No. (2082) dated: 01/06/1438 AH, as amended, and 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), dated 11/06/1425 AH, as amended, and the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040), dated 21/04/1441 AH. and the relevant Laws and regulations.

In form, the Plaintiff seeks by this Case to cancel ZATCA's Decision regarding Zakat assessment for 2017, and given that this dispute is a tax dispute, it falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes pursuant to Royal Order No. (26040), dated 21/04/1441 AH. Since the Case was filed by a party with legal capacity and within the prescribed statutory period, it is incumbent upon this Department to accept the Case in form.

On Merits: Having taken cognizance of documents included in Case file, requests, defenses and pleas raised by the parties, the Department found that the dispute lies in the Defendant's issuance of zakat assessment for 2017. The Plaintiff's objection is limited to four specific items.

Regarding First Item: End-of-service gratuity provision, the Plaintiff is objecting to the inclusion of the end-of-service gratuity provision in zakat base. Zakat Payer is claiming Plaintiff objects expenses are recorded on an accrual basis, and if they are not paid or settled during the year, they are added to zakat base in the following year. However, the Defendant has argued that the expense created for the end-of-service gratuity provision was deducted from the adjusted net profit, as it was considered a non-deductible expense. Paragraph (9) of Clause (First) of Article (4) of the Implementing Regulations for Zakat Collection, issued by Ministerial Decision No. (2082), dated 01/06/1438 AH states: "The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 9-Provisions at the beginning of the year (excluding doubtful debt provisions for banks) after deducting the utilized portion during the year". Article (20.3) of the Implementing Regulations for Zakat Collection, issued by Ministerial Decision No. (2082), dated 01/06/1438 AH states: "The zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the zakat payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it". Based on the foregoing, it is evident that the dispute regarding this item is a documentary one. Upon reviewing the Case file, including the pleadings and documents, it is clear that the Plaintiff has failed to provide the provision movement, which would allow verification of the balance of provisions that have been held for a full lunar year and must be added to zakat base. Therefore, the Department decided to reject the Plaintiff's objection to the end-of-service gratuity provision.

As for Item Second: Gratuities, the Plaintiff is objecting to the non-deduction of gratuities. Zakat Payer is Plaintiff objects these are gifts given to trainees in the form of trophies and certificates of appreciation upon successful completion of training courses. Therefore,



they are considered business expenses and should be deducted from zakat base. In contrast, the Defendant has argued that it included this item in the adjusted net profit during the assessment, based on the data available in the financial statements. Zakat Payer has provided a statement from the accounting system showing the opening balance, debit and credit movements during the year, and the closing balance Article (5.1/a) of the Implementing Regulations for Zakat Collection, issued by Ministerial Decision No. (2082), dated 01/06/1438 AH, related to expense that may be deducted states: “Expenses ordinary and necessary for an entity to engage in business activity, whether paid or due, shall be deducted to determine the net result of the activity, subject to meeting the following criteria: a. Expenses should be actual expenses as supported by relevant documents and other evidential matter to enable the Authority to verify the accuracy of expenses, even if related to prior years”. Paragraph (2) of Article (6) of the same Regulations related to deductible expenses states: “Expenses following which stipulates the Zakat Payer fails to prove by supporting documents or other evidential matter acceptable to the Authority”. Additionally, Article (20.3) of the same Regulations states: “The burden of proof regarding the accuracy of the items listed in the Zakat payer's declaration, as well as any other data, lies with the Tax Payer. In case of the Zakat Payer's failure to prove the accuracy of the information reported, the Authority may disallow such item not proven to be correct by Zakat Payer, or otherwise raise assessment on deemed basis at the Authority's discretion in view of the surrounding circumstances, facts and information available with the Authority”. Based on the foregoing, such expenses would be considered deductible if it is proven that they were actually incurred and supported by documentary evidence. Since the dispute regarding this item is a documentary one, and upon reviewing the documents in the Case file, it is evident that the Plaintiff has failed to provide the supporting documents for the disputed expenses. Therefore, the Department has decided to reject the Plaintiff's objection to item (gratuities).

Third: Item (Profit/Loss of the Year): Leases. The Plaintiff is objecting to the inclusion of accrued leases in zakat base for 2017, Plaintiff objects they are current liabilities that have already been settled. However, the Defendant has maintained the validity of its Decision as a full lunar year has passed on this item. Article (4.5) of Clause (First) of the Implementing Regulations for Zakat Collection, issued Ministerial Decision No. (2082), dated 01/06/1438 AH states: “The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 5- Government and commercial loans and similar other sources of financing such as creditors, payment papers, and overdraft accounts owed by the Zakat payer which: A. remained in cash and had a year passed on it. B. were used to finance acquisition assets. C. The portion used for trading assets and for which a full year has passed. Additionally, Article (20.3) of the same Regulations states that: "The zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the zakat payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it". Based on the foregoing, the balances of accrued expenses are considered a component of zakat base, provided that a lunar year has passed on these balances. Since the dispute over this item is a documentary dispute, and since the Plaintiff has not provided supporting documents for its objection, the Department has decided to reject the Plaintiff's objection to item (Leases).

Regarding the fourth item: Loans. The Plaintiff is objecting to the inclusion of accrued loans in zakat base for 2017, Plaintiff objects these are not loans but rather non-current related creditors. It intends to adjust this label in the financial statements for future years to be related creditors. However, the Defendant has maintained the validity of its Decision as a full lunar year has passed on this item. Article (4.5) of Clause (First) of the



Implementing Regulations for Zakat Collection, issued Ministerial Decision No. (2082), dated 01/06/1438 AH states: "The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 5- Government and commercial loans and similar other sources of financing such as creditors, payment papers, and overdraft accounts owed by the Zakat payer which: A. remained in cash and had a year passed on it. B. were used to finance acquisition assets. C. The portion used for trading assets and for which a full year has passed. Additionally, Article (20.3) of the same Regulations states that: "The zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the zakat payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it". Based on the foregoing, the accrued loans that the Plaintiff claimed to be balances of related creditors are considered a source of financing and are treated as equity in terms of zakat treatment. Consequently, the portion that has completed a full lunar year must be added to zakat base. The Plaintiff's argument that these are balances of related creditors does not negate the correctness of ZATCA's zakat assessment for the disputed year, as the condition of a full lunar year has been met, thus requiring its inclusion in zakat base. Therefore, the Department decided to reject the Plaintiff's objection to item (loans). For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

First: Reject the Plaintiff's objection to item (end-of-service gratuity provision).

Second: Reject Plaintiff's objection to item (gratuities).

Third: Reject the Plaintiff's objection to item (Leases).

Fourth: Reject the Plaintiff's objection to item (Loans).

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-428
Case No. Z-17663-2020

Key words:

Zakat - Estimated - Capital - Commercial Register - Fiscal Period - Double Zakat Assessment

Abstract

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding estimated zakat assessment for 1440 AH. Zakat Payer argues that the Defendant's action of conducting an estimated assessment was incorrect. Zakat Payer points out in its claim that it mistakenly objected to only (SAR 500) in his appeal, rather than the entire amount. It further claims that it is not possible to amend the appeal after it has been rejected. Regarding issuance of estimated zakat assessment for 1440 AH by the defendant. It has become clear to the Department that the enterprise has been transformed into a Company with a new capital of (SAR 1,150,000), and that the Fiscal period for the estimated zakat assessment is from 01/07/1440 AH to 30/06/1441 AH. This has resulted in a double zakat assessment being imposed on Zakat Payer. Therefore, the Department dismisses Zakat Payer's objection.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), holder of National ID No. (...), In his capacity as Director of the Company (...) C. R. No. (...) Under C.R., filed an objection to ZATCA's estimated zakat assessment for 1440 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment, stating in its statement of claim that due to a mistake, it only objected to an amount of (SAR 500), not the entire amount, and that it is not possible to amend the objection after it has been rejected. It is noted that the capital on which zakat base was calculated, amounting to (SAR 1,150,000), belongs to C.R. No. (...) which was turned into a limited liability company. The Company's AOA is registered with notary public in document no. (...), dated .././... AH. TIN No. (...) has been created on the General Authority of Zakat and Income portal. There are two records registered under the Enterprise's TIN: The first record is with a capital of



(SAR 5,000), and the second one is with a capital of (SAR 10,000). The Defendant has not yet engaged in any commercial activity. Therefore, the Plaintiff requests a remand.

Upon reviewing the statement of claim, the Defendant stated that its Decision is in accordance with provisions Articles 3 and 4 of Rules of Calculating Zakat for Estimate Taxpayers, issued by Ministry of Finance Decision No. (852) dated 28/02/1441 AH. Assessment was based on the capital recorded in the commercial register. Therefore, ZATCA exercised its powers granted to it by these rules, which authorize it to assess Zakat Payers on an estimated basis based on the information and data available. ZATCA has the right, under its powers granted by the law, to refer to this information to calculate zakat base that fairly reflects Zakat Payer's actual activity in light of the circumstances, facts related to the case, and information available to ZACAT about Zakat Payer. This can be done either through the evidence and indicators provided by Zakat Payer or by directly and continuously referring to any information directly related to Zakat Payer that is held by a third party, showing the volume of its imports, contracts, labor, loans, and grants obtained. ZATCA can provide the Esteemed Committee with documents supporting this upon request. Therefore, ZATCA maintains that its Decision, subject matter of the Case, is based on valid legal reasons stated in its justifications, and it is up to the Plaintiff to prove the invalidity of the Decision.

On Sunday, corresponding to 16/01/2022 AD, the Department held its session remotely to consider the Case. At that session, the Plaintiff's Attorney (...), holder of ID No. (...) was present under the commercial registration attached to the Case file. Also, attended the Defendant's Representative (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated ../ ../ / ... AH, the Plaintiff's Representative argued that the Enterprise had been turned into a Company, and a different TIN had been issued to the Company compared to the number associated with the Enterprise. Upon questioning the Defendant's Representative about their response to the request for a grace period. As such, the Department decided to adjourn the hearing to a later session, which was set for Tuesday, 01/02/2022 AD.

On Tuesday, 01/02/2022 AD, the Department held its session remotely to hear the Case. For the Defendant, Mr. (...) appeared, with holder of National ID No. (...), appeared pursuant to the commercial registration attached to the Case file. Also, attended the Defendant's Representative... holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated ../ ../ / AH. During this session, the Defendant's Representative did not submit his Reply, and requested an additional extension to reply to the Case. Therefore, the Department decided to adjourn the hearing to a later session, which was set for Sunday, 13/02/2022 AD.

On Sunday, corresponding to 13/02/2022 AD, the Department held its session remotely to consider the Case. At that session, attended the Plaintiff (...), holder of National ID No. (...), appeared pursuant to the commercial registration attached to the Case file. Also, attended the Defendant's Representative (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated ../ ../ / .. AH. Having asked parties to the Case about what they would like to add, they were satisfied with their earlier submissions. Accordingly, the Department decided to adjourn the session for deliberation before adjudication.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax



Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1440, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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, Upon careful examination of the documents contained in the Case file and the requests, defenses, and arguments presented by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1440 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Article (3) of the Rules of Calculating Zakat for Estimate Taxpayers, issued by Ministry of Finance Decision No. (852) dated 28/02/1441 AH, states that: "Zakat base for a Zakat Payer subject to these rules is estimated by determining a capital that is commensurate with the size of Zakat Payer's activity according to the following equation: $[(\text{Sales}/8) + (\text{Sales} \times 15\%)]$ and not less than the capital stated in the commercial register or the licenses required for the activity or any other documents through which the authority can determine the capital". Upon reviewing the Case file, the Department found that the Enterprise had been turned into a Company on : 18/01/1441 AH, and that the capital of the new Company was (SAR 1,150,000).Fiscal period for the estimated zakat assessment was from 01/07/1440 AH to 30/06/1441 AH. This resulted in a double zakat assessment being imposed on the Plaintiff. Based on the foregoing, the Department decided to accept the Plaintiff's objection to the estimated zakat assessment for the period from 01/07/1440 AH to 30/06/1441 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Accept the objection filed by the Plaintiff (.....) (ID No.), regarding the estimated Zakat period from 01/07/1440 AH to 30/06/1441 AH.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-429
Case No. Z-45704-2021

Key words:

Zakat - Estimated - Commercial Register - Capital Recorded in Commercial Register

Abstract

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding estimated zakat assessment for 1432 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment based on the commercial register recorded in its name without being notified by the Ministry of Commerce of the TIN and resulting obligations. The Department has found that the commercial register was canceled on 14/05/1442 AH, i.e. years after the estimated zakat assessment. Additionally, the Plaintiff is objecting to the fact that the Defendant relied on the capital recorded in the commercial register for its zakat assessment. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
 - [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), (ID No.) filed an objection to ZATCA's Decision regarding the estimated Zakat assessment for 1432 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment based on the commercial register registered in his name under no.(...) dated ../../... AH without being notified by the Ministry of Commerce of the TIN and resulting obligations. Additionally, the Plaintiff claims that he was unaware that he had a file at ZATCA until the Plaintiff received a text message from ZATCA on his mobile phone. He states that he obtained the commercial register but never engaged in any commercial activity; as he started a government job at (...) Authority less than two months after opening the commercial register on ../../... AH and was fully occupied with his job. He was also sent on a mission during that period and inadvertently and unknowingly neglected to cancel the commercial register from the date he started working. The Plaintiff substantiated his claim by citing Article (1) of Commercial Law issued by Royal Decree No. (M/2) dated 15/01/1390 AH, which states that "A merchant is a person engaged in the commercial



transactions, making such engagement his profession." Therefore, the Plaintiff requests cancellation of ZATCA's action and the estimated assessment.

Upon reviewing of the statement of claim, the Defendant stated that its Decision was in compliance with the Rules of Calculating Zakat for Estimate Taxpayers, issued by His Excellency the Minister of Finance under Decision No. (852) dated 28/02/1441 AH. Zakat base was accordingly calculated based on the capital recorded in the commercial register. On Monday, 21/02/2022 AD, the Department held a remote session to hear the Case. However, the Plaintiff's Representative was not present, despite being duly notified of the session date. Representative of the Defendant, (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .../.../... AH. Having reviewed the case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form, the Plaintiff's purpose of this Case is to cancel ZATCA's Decision regarding the estimated Zakat assessment for 1432 AH. Since this dispute is considered one of the tax disputes that fall within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH and given that the Case was filed with valid Grounds, by an eligible party, and within the legally prescribed period, the Case is to be accepted in form.

On merits, Upon careful examination of the documents contained in the Case file and the requests, defenses, and arguments presented by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1432 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Based on the foregoing, and given that the Department has ascertained that the commercial register was canceled on 14/05/1442 AH, i.e. years after the estimated Zakat assessment, and that the Defendant relied on the capital recorded in the commercial register for its Zakat assessment. As such, the Department has decided to reject the Plaintiff's objection to estimated Zakat assessment for 1432 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

C.

Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat assessment for 1432AH.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-454
Case No. Z-42583-2021

Key words:

Zakat - Estimated - Capital Recorded in Commercial Register - Active Commercial Registers

Abstract

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding estimated Zakat assessment for 1434 AH. Zakat Payer is objecting to the Defendant's action of conducting an estimated assessment, arguing that Zakat Payer did not engage in any commercial activity. Accordingly, the Plaintiff is requesting cancellation of ZATCA's Decision. The Department has established that the cancellation date serves as proof that Zakat Payer did not engage in any activity, and therefore, the Department believes that Zakat should be adjusted and imposed only on active records. Therefore, the Department decided to amend the Defendant's action.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of Income Tax Law issued pursuant to Minister of Finance Decision No. \(1535\) dated 11/06/1425 AH](#) Paragraph (6/a) of Article (13) of

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), (ID No.) filed an objection to ZATCA's Decision regarding the estimated Zakat assessment for 1434 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment, arguing that he did not engage in any commercial activity. The Plaintiff is requesting cancellation of ZATCA's Decision.

Upon reviewing the statement of claim, the Defendant stated that its Decision was in compliance with the Rules of Calculating Zakat for Estimate Taxpayers, Zakat base consequently was calculated based on the capital recorded in the commercial register. Accordingly, ZATCA exercised its power granted to it pursuant to that, which authorizes it to hold Zakat Payer accountable in an estimated manner according to the information and data that ZATCA has the right, according to the powers granted to it by the law, to refer to in order to be able to calculate zakat base that fairly reflects the reality of Zakat Payer's activity in light of the circumstances and facts related to the Case and information available about Zakat Payer to ZATCA, either through what Zakat Payer provides of documented evidence and indications, or by referring directly and continuously to any



information directly related to Zakat Payer that is kept by a third party, showing the size of Zakat Payer's imports, contracts, workers, loans and subsidies it has received.

On Monday, 07/02/2022 AD, the Department held its session remotely to consider the Case. At that session, the Plaintiff (...) was present, ID No. (...), In addition, the Defendant's Representative (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .././.. AH. Having asked parties to the Case about what they would like to add, they were satisfied with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation before adjudication.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form, the Plaintiff is moving this case to cancel ZATCA's Decision regarding the estimated Zakat assessment for 1434 AH, and since this dispute is considered one of the tax disputes that fall within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH and given that the Case was filed with valid Grounds, by an eligible party, and within the legally prescribed period, the case is to be accepted in form.

On merits, Upon careful examination of the documents of the Case file and the requests, defenses, and arguments presented by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1434 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests cancellation of the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Article (13.6/a) of the Implementing Regulations for Zakat Collection stipulates: "6. Estimate zakat base consists of the following unless Zakat Payer's declaration shows a larger base: a. Working capital, which shall be determined by any available method, whether from the commercial register, company contracts and bylaws, or any other supporting document. If it appears that the actual working capital differs, ZATCA shall determine it in a manner consistent with the size of the activity and the number of capital cycles according to the custom in each industry, trade, or business". Based on the foregoing, and upon reviewing ZATCA's estimated assessment, it appears that the Plaintiff was assessed based on the capital shown in the commercial register. Upon reviewing documents of the Case file, it appears that the commercial register expired on .././... AH and the Plaintiff did not renew it. Given that the Plaintiff is requesting cancellation of Zakat calculated by the Defendant, claiming that he did not engage in any commercial activity, and that the Plaintiff has not proven that he did not engage in any activity, and considering that the cancellation date is considered proof of non-activity, the Department believes that Zakat should be adjusted and imposed only on active records. Therefore, the Department concludes by amending the Defendant's action by considering the capital recorded in active commercial registers.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Amend ZATCA's procedure by basing Zakat assessment on the capital recorded in the active commercial registers.



The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Key words:

Zakat - Estimated - Not Engaging in Commercial Activity - Expiration of Commercial Register - Capital Recorded in Commercial Register - Capital Shown in Commercial Register - Deletion of Commercial Register

Abstract

Zakat Payer is requesting cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 1426 AH. Zakat Payer is objecting to the Defendant's action of conducting an estimated assessment, due to lack of commercial activity and expiration of commercial register in 1424 AH. The Department has established that Zakat Payer is assessed based on the capital shown in the commercial register, and Zakat Payer has not provided any evidence of the cancellation of the commercial register. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- Paragraph (6) of Article (13) of [Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), (ID No.) filed an objection to ZATCA's Decision regarding the estimated Zakat assessment for 1426 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment due to lack of commercial activity and expiration of commercial register in 1424 AH.

Upon reviewing the statement of claim, the Defendant stated that its Decision was in accordance with Articles (3) and (4) of the Rules of Calculating Zakat for Estimate Taxpayers, where Zakat base was calculated based on the capital recorded in the commercial register for the period relevant to Zakat declaration.

On Monday, 07/02/2022 AD, the Department held a remote session to hear the Case. However, neither the Plaintiff nor its Representative was present, despite being duly notified of the session date. Representative of the Defendant, (...) was present, holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated ../ ../ ... AH. Having reviewed the Case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation



Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form, the Plaintiff is moving this case to cancel ZATCA's Decision regarding the estimated Zakat assessment for 1426AH, and since this dispute is considered one of the tax disputes that fall within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH and given that the Case was filed with valid Grounds, by an eligible party, and within the legally prescribed period, the case is to be accepted in form.

On merits, Upon careful examination of the documents contained in the Case file and the requests, defenses, and arguments presented by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 2019. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to cancel the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Article (13.6) of the Implementing Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH stipulates: "6. Estimate zakat base consists of the following unless Zakat Payer's declaration shows a larger base: A. Working capital shall be determined by any available means, whether through the commercial register, company contracts and articles of association or any other supporting document. If it turns out that the actual working capital differs from the same, ZATCA shall be entitled to determine it in proportion to the volume of activity and the number of capital cycles according to industry, trade or business norms. b. The net profits realized during the year, which are estimated at a minimum of 15% of the total revenue" Based on the foregoing, and upon reviewing the estimated assessment issued by ZATCA, it appears that the Plaintiff was assessed based on the capital shown in the commercial register. Since the Plaintiff has not provided any evidence of the cancellation of the commercial register, the Department concludes by rejecting the Plaintiff's objection to the estimated Zakat assessment.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat assessment.

This Decision was issued in the presence of both parties . in accordance with the provisions of Article 56 of the Law of Civil Procedures. The Department has set a thirty-day period for receiving a copy of the Decision via the website of the General Secretariat of the Zakat, Tax and Customs Committees. This Decision is considered final and enforceable as per Article 42 of the Tax Dispute and Violation Committee Procedures.

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



Key words:

Zakat - Estimated - Capital Shown in Commercial Register - Deletion of Commercial Record

Abstract

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 1437 AH. Zakat Payer is objecting to the Defendant's action of conducting an estimated assessment for 1437 AH based on the capital shown in the commercial register. The Department has established that Zakat Payer is assessed based on the capital shown in the commercial register, and Zakat Payer has not provided any evidence of the cancellation of the commercial register. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), ID No. (...), has filed an objection to the estimated Zakat assessment for 1437 issued by ZATCA. The Plaintiff objects to the Defendant's action of conducting an estimated assessment for 1437 based on the capital recorded in the commercial register. The Plaintiff has clarified that this business project never saw the light as it had no physical location, municipal license, or employees. The commercial register was obtained without completing the project establishment steps, and the process stopped after its issuance. Therefore, Zakat should not be paid as the lunar year has not passed on any amount allocated for this project, and there was no income from this project.

The Plaintiff indicated that he has attached documents proving that the capital allocated for this project ended with the cancellation of the commercial register and that it did not complete the lunar year. These documents include: 1. The commercial register itself, which shows that it expired on .././...AH, indicating that the capital allocated for this project ended with the expiration date of the commercial register, and that it did not complete the lunar year. How can Zakat be paid on a non-existent amount? 2. Notifications from the municipality, Ministry of Human Resources, and the General



Organization for Social Insurance (GOSI), stating that there is no establishment, location, municipal license, or employees. Therefore, there is no income on which the lunar year could pass, and there is no capital as the amount allocated for this project ended before the lunar year was complete. The Plaintiff also pointed out that the commercial register was canceled on a date after the issuance of the aforementioned Zakat invoices.

Upon reviewing the statement of claim, the Defendant stated that its Decision was in compliance with Articles (3) and (4) of the Rules of Calculating Zakat for Estimate Taxpayers, issued by Minister of Finance's Decision No. (852) dated 28/02/1441 AH, where Zakat base was calculated based on the capital in the commercial register as it was cancelled on .././... AH. Accordingly, ZATCA exercised its power granted to it pursuant to that, which authorizes it to hold Zakat Payer accountable in an estimated manner according to the information and data that ZATCA has the right, according to the powers granted to it by the law, to refer to in order to be able to calculate zakat base that fairly reflects the reality of Zakat Payer's activity in light of the circumstances and facts related to the Case and information available about Zakat Payer to ZATCA, either through what Zakat Payer provides of documented evidence and indications, or by referring directly and continuously to any information directly related to Zakat Payer that is kept by a third party, showing the size of Zakat Payer's imports, contracts, workers, and loans and subsidies it has received. Therefore, ZATCA maintains that its Decision, subject matter of the Case, is based on sound legal Grounds stated in its merits, and it is up to the Plaintiff to prove the invalidity of the Decision.

On Wednesday, corresponding to 16/02/2022 AD, the Department held a remote session to hear the Case. However, neither the Plaintiff nor its Representative was present, despite being duly notified of the session date. Representative of the Defendant, (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated ../ Having reviewed Case file and since the Case was ripe for adjudication as per provisions of Article (20) Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering a Decision.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1437, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 documents of the Case, and after considering the requests, defenses, and pleas of the parties, the Department has found that the dispute lies in the issuance of the estimated Zakat assessment for 1437 AH by the Defendant. The Plaintiff objects to the Defendant's action of conducting an estimated assessment and demands its amendment. Meanwhile the Defendant has maintained the validity of its Decision. Based on the foregoing, and upon reviewing the estimated assessment issued



by ZATCA, it appears that the Plaintiff is assessed based on the capital shown in the commercial register, and that the Plaintiff has not provided any evidence of the cancellation of the commercial register. This leads the Department to conclude by rejecting the Plaintiff's objection to the estimated Zakat assessment. Based on the foregoing, the Department decided to reject the Plaintiff's objection to estimated Zakat assessment for 1437 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat 1437 AH.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-488
Case No. Z-2021 -62472

Key words:

Zakat - Estimated - Deletion of Commercial Records - Capital Shown in Commercial Register - Zakat Base

Abstract

Zakat Payer is requesting to cancel Zakat's Decision regarding estimated Zakat assessment for 1433 AH., the Plaintiff is objecting to the Defendant's action of conducting an estimated assessment, arguing that the amount is excessive and that it does not have any entities. All records have been canceled, and only one expired record remains since Zakat Payer ceased its activities. Accordingly, the Plaintiff requests cancellation of ZATCA's Decision. The Department has established that Zakat Payer is assessed based on the capital shown in the commercial register, and Zakat Payer has not provided any evidence of the cancellation of the commercial register. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Article \(13.6\) of of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), (ID No. ...), filed its objection to Zakat's Decision regarding estimated Zakat assessment for 1433 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment, arguing that the amount is excessive and that it does not have any entities. All records have been canceled, and only one expired record remains since Zakat Payer ceased its activities. Accordingly, the Plaintiff requests cancellation of ZATCA's Decision.

Upon reviewing the statement of claim, the Defendant responded that its Decision was in compliance with the law, as the Plaintiff was held accountable based on the capital recorded in commercial register No. (...) for the contracting activity with a capital of (SAR 100,000). Accordingly, ZATCA exercised its power granted to it pursuant to that, which authorizes it to hold Zakat Payer accountable in an estimated manner according to the information and data that ZATCA has the right, according to the powers granted to it by the law, to refer to in order to be able to calculate zakat base that fairly reflects the reality



of Zakat Payer's activity in light of the circumstances and facts related to the Case and information available about Zakat Payer to ZATCA, either through what Zakat Payer provides of documented evidence and indications, or by referring directly and continuously to any information directly related to Zakat Payer that is kept by a third party, showing the size of Zakat Payer's imports, contracts, workers, and loans and subsidies it has received.

On Monday, 07/02/2022 AD, the Department held a remote session to hear the Case. However, neither the Plaintiff nor its Representative was present, despite being duly notified of the session date. Representative of the Defendant, (...) was present, holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated ../../.. AH. Having reviewed the Case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form, the Plaintiff is moving this case to cancel ZATCA's Decision regarding the estimated Zakat assessment for 1433AH, and since this dispute is considered one of the tax disputes that fall within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH and given that the Case was filed with valid Grounds, by an eligible party, and within the legally prescribed period, the case is to be accepted in form.

On merits, upon careful examination of the documents of the Case file and the requests, defenses, and arguments presented by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1433 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to cancel the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Article (13.6) of the Implementing Regulations for Zakat Collection issued by Minister of Finance's Decision No. (2082) dated 01/06/1438 AH stipulates: "6. Estimate zakat base consists of the following unless Zakat Payer's declaration shows a larger base: A. Working capital shall be determined by any available means, whether through the commercial register, company contracts and articles of association or any other supporting document. If it turns out that the actual working capital differs from the same, ZATCA shall be entitled to determine it in proportion to the volume of activity and the number of capital cycles according to industry, trade or business norms. "b. Net profits realized during the year, which are estimated at a minimum of 15% of total revenues...". Based on the foregoing, and upon reviewing the estimated assessment issued by ZATCA, it appears that the Plaintiff was assessed based on the capital shown in the commercial register. Since the Plaintiff has not provided any evidence of the cancellation of the commercial register, the Department concludes by rejecting the Plaintiff's objection to the estimated Zakat assessment.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:



Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat assessment.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-549
Case No. Z-39798-2021

Key words:

Zakat - Estimated - Calculation of Zakat Base based on Capital Recorded in Commercial Register - Date of Commercial Register - Deletion of Commercial Register

Abstract

Zakat Payer is requesting cancellation of ZATCA's Decision regarding the estimated zakat assessment for 1437 AH. Zakat Payer claims that he did not complete the procedures to open the establishment and did not actually start engaging in commercial activities. He only opened the commercial register more than four years ago, and its validity expired one year after its issuance. Now, he has completed the procedures to cancel the establishment to avoid future Zakat declarations. As such, Zakat Payer is requesting a refund of the amount paid to file the objection and to cancel zakat assessment. The Department has established that the expatriation date of the commercial register is 07/03/1439 AH, and that Zakat Payer did not cancel the commercial register of his establishment before issuance of Zakat assessment for the disputed year. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
 - [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), holder of National ID No. (...), In his capacity as Owner of (...) Enterprise, CR. No. (...), has filed an objection to ZATCA's estimated Zakat assessment for 1437 AH The Plaintiff claims that he did not complete the procedures to open the establishment and did not actually start engaging in commercial activities. He only opened the commercial register more than four years ago, and its validity expired one year after its issuance. Now, he has completed the procedures to cancel the establishment to avoid future zakat declarations. As such, Zakat Payer is requesting a refund of the amount paid to file the objection and to cancel Zakat assessment.

Upon reviewing of the statement of claim, the Defendant stated that its Decision was in compliance with Articles (3) and (4) of the Rules of Calculating Zakat for Estimate



Taxpayers, issued by His Excellency the Minister of Finance under Decision No. (852) dated 28/02/1441 AH. Zakat base was accordingly calculated based on the capital recorded in the commercial register.

On Monday, corresponding to 21/02/2022 AD, the Department held a remote session to hear the Case. However, neither the Plaintiff nor its Representative was present, despite being duly notified of the session date. Representative of the Defendant, (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .. / .. / ... / ... AH. Having reviewed the Case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form, the Plaintiff's purpose of this Case is to cancel ZATCA's Decision regarding the estimated Zakat assessment for 1437 AH. Since this dispute is considered one of the tax disputes that fall within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH and given that the Case was filed with valid Grounds, by an eligible party, and within the legally prescribed period, the Case is to be accepted in form.

On merits, Upon careful examination of the documents contained in the Case file and the requests, defenses, and arguments presented by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1437 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Based on the foregoing, and given that the Department has ascertained that the commercial register was canceled on 03/07/1439 AH, and that the Plaintiff did not cancel the commercial registry of his establishment before issuance of Zakat assessment for the disputed year, the Department decided to reject the Plaintiff's objection to the estimated zakat assessment for 1437 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat assessment for 1437AH.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Key words:

Zakat - Estimated - Calculation of Zakat Base - Zakat Declaration - Financial Statements

Abstract

Zakat Payer is requesting cancellation of ZATCA's Decision regarding the estimated zakat assessment for 1440 AH. The Plaintiff objects to the Defendant's action of conducting an estimated assessment, arguing that the reason for not submitting the declaration is the Company's inability to issue audited financial statements by an accredited chartered accountant before the due date. Therefore, Zakat Payer is requesting cancellation of the estimated assessment issued by ZATCA, which does not reflect the actual amount of zakat, and adoption of the approved financial statements for 1440 AH as the basis for calculating Zakat. The Department has established that Zakat Payer's failure to submit Zakat declaration and financial statements to ZATCA, despite being granted sufficient time to do so, gives ZATCA the right to make an estimated assessment. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- Paragraph (5/a) and Paragraph (8) of Article (13) of [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summed up as follows: Mr....., (ID No..) in his capacity as Representative of Plaintiff/ Company (.....), C.R. No. (...) pursuant to the commercial register, has filed an objection to ZATCA's estimated zakat assessment for 1440 AH. The Plaintiff objects to the Defendant's action of conducting an estimated assessment, arguing that the reason for not submitting the declaration is the Company's inability to issue audited financial statements by an accredited chartered accountant before the due date. Therefore, Zakat Payer is requesting cancellation of the estimated assessment issued by ZATCA, which does not reflect the actual amount of Zakat, and adoption of the approved financial statements for 1440 AH as the basis for calculating Zakat.

Upon reviewing the statement of claim, the Defendant stated that the assessment was issued to the Plaintiff on .././... AD, while Zakat Payer filed an objection to the contested Decision before ZATCA on .././... AD. The difference in days between the assessment



date and the objection date is more than sixty days. Therefore, with the lapse of the statutory period for accepting objections from a formal standpoint, the Decision has become final and unappealable. ZATCA's Decision was based on Article (22.1) and Article (22.4/a) of the Implementing Regulations for Zakat Collection, as well as on Article (3.1) of the Tax Dispute and Violation Committee Procedures.

On Monday, 07/03/2022 AD, the Department held a remote session to hear the Case. However, neither the Plaintiff nor its Representative was present, despite nor duly notified of the session date. Representative of the Defendant, (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .. / .. / ... AH. Having reviewed the Case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

As for the formal aspect, the Plaintiff moving this case to cancel ZATCA's Decision regarding the estimated Zakat assessment for 1440, and since this dispute is considered one of the tax disputes that fall within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH and given that the Case was filed with valid Grounds, by an eligible party, and within the legally prescribed period, the case is to be accepted in form.

On merits, Upon careful examination of the documents contained in the Case file and the requests, defenses, and arguments presented by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1440 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has argued that the Case is inadmissible in form Article (13.5/a) of the Implementing Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH stipulates: "ZATCA has the right to hold Zakat Payers accountable regarding estimated manner in order to oblige them to comply with legal requirements in the following cases: A- Failure of Zakat Payer to submit its Zakat declaration based on legal books and records on the regular date. Moreover, Article (13.8) of the Implementing Regulations for Zakat Collection states: " 8- When determining Zakat base using the estimated method, the Authority collects information that enables it to calculate Zakat base that fairly reflects Zakat Payer's actual activity in light of the circumstances, facts related to the Case, and information available to the Authority about Zakat Payer through the evidence and clues provided by Zakat Payer, as well as through field inspections and examinations conducted by the Authority, and any information obtained from other parties such as Zakat Payer's import volume, contracts, employees, loans, and grants".

Based on the foregoing, and considering that the calculation of Zakat base is based on Zakat Payer's declaration as specified in the declarations submitted by it, and it is incumbent upon it to provide evidence to support the accuracy of these declarations. Financial statements represent the primary evidence supporting the calculation of the base. Upon reviewing the Case file, it is clear that the Plaintiff did not submit its



declaration and audited financial statements within the prescribed period. Referring back to the statement of claim, it is clear that the justifications and reasons stated by the Plaintiff are not considered acceptable for such a long delay. Given that the Plaintiff did not submit Zakat declaration and financial statements to ZATCA despite being granted sufficient time to do so, ZATCA is entitled to make an estimated assessment, taking into account the unreasonableness of the reasons and justifications provided by the Plaintiff that led to its delay in submitting the financial statements, in addition to the fact that the Plaintiff was granted sufficient time by ZATCA to submit these statements. As such, the Department concludes by rejecting the Plaintiff's objection to the estimated Zakat assessment for 1440 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss objection filed by Plaintiff (... Company), C.R. No. (...), to estimate zakat assessment for 1440.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-579
Case No. Z-49092-2021

Key words:

Zakat - Estimated - Calculation of Zakat Base - Capital - VAT Returns - Calculation of Sales Subject to Zero Percent Zakat Rate

Abstract

Zakat Payer is requesting cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 1441 AH. Zakat Payer objects to the Defendant's action of conducting an estimated assessment, arguing that the sales figure included in Zakat base and submitted in the tax returns on a regular basis to ZATCA for 1441 AH is (SAR 3,304,954.28). Its details are attached to the Case, and the amount of Zakat for this period is (SAR 22,721.56). However, Zakat base was calculated in ZATCA's records as (SAR 3,835,093.90) and the amount of Zakat as (SAR 26,366.27). The Department has established that Zakat Payer has not submitted the VAT returns that clarify the amounts claimed. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), (ID No.) filed an objection to ZATCA's Decision regarding the estimated Zakat assessment for 1441 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment, arguing that the sales figure included in Zakat base and submitted in the tax returns on a regular basis to ZATCA for 1441 AH for the period from .././... to .././... AH corresponding to .././... to .././... AD, amounting to (SAR 3,304,954.28). Its details are attached to the Case. Zakat amount for this period is (SAR 22,721.56). However, Zakat base was calculated in ZATCA's records as (SAR 3,835,093.90) and Zakat amount as (SAR 26,366.27). Therefore, there is a difference between the actual sales figure according to the Plaintiff's records and the sales figure calculated by ZATCA, amounting to (SAR 530,139.62), and based on this difference, the objection is submitted and the Case is filed for the difference in Zakat amount for 1441 AH, amounting to (SAR 3,644.71). The Plaintiff adds that according to ZATCA, the Company's activity (selling prescription glasses, sunglasses and contact lenses) is subject to a zero percent value-added tax, and therefore,



refund requests for tax purchases have been submitted since the imposition of VAT in KSA until Q2-2021. Consequently, the Company's accounts have been reviewed and audited by ZATCA and no remarks were made on the accuracy of the sales figure. The undisputed amount, plus 25% of the disputed amount, has been paid.

Upon reviewing the statement of claim, the Defendant stated that its Decision is in accordance with Articles (3) and (4) of Rules of Calculating Zakat for Estimate Taxpayers, issued by the Minister of Finance in Decision No. (852) dated 28/02/1441 AH. Zakat base was calculated based on VAT sales.

On Monday, 14/03/2022 AD, the Department held its session remotely to consider the Case. At that session, the Plaintiff (...) was present, ID No. (...), In addition, the Defendant's Representative (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .././.. AH. Having asked parties to the Case about what they would like to add, they were satisfied with their earlier submissions. Accordingly, the Department decided to adjourn the session for deliberation before adjudication.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1441, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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: Upon careful examination of the documents included in the Case file and the requests, defenses, and arguments raised by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1441 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Moreover, Article (3) of the Rules of Calculating Zakat for Estimate Taxpayers, issued by Ministry of Finance Decision No. (852) dated 28/02/1441 AH, states: "The Zakat base of Zakat Payer subject to these rules shall be evaluated by identifying capital that is appropriate to the size of Zakat Payer's activity, according to the following equation: $[(\text{Sales}/8) + (\text{Sales} \times 15\%)]$ and not less than the capital stated in the commercial register or the licenses required for the activity or any other documents through which the Authority can determine the capital". Based on the above, and upon reviewing the data submitted by both parties, the Department has found that the Plaintiff has not submitted the VAT returns that clarify the amounts claimed. Regarding the non-inclusion of sales subject to a zero percent Zakat rate, the rules for calculating Zakat for estimated taxpayers have not indicated an exemption from the obligatory Zakat. Based on the foregoing, the Department has decided to reject the Plaintiff's objection to the estimated Zakat assessment for 1441 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:



Decision:

Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat assessment for 441AH.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-581
Case No. Z-2021-39209

Key words:

Zakat - Estimated - Categories Subject to Rules of Calculating Zakat for Estimate Taxpayers - Sales Declared in VAT Returns - Revenues

Abstract

Zakat Payer is requesting cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 1441 AH. Zakat Payer objects to the Defendant's action of conducting an estimated assessment, arguing that ZATCA has doubled the capital when calculating Zakat. Zakat Payer also explains that most of its purchases are made on credit with payments made over agreed-upon periods, and therefore requests that this be taken into consideration when calculating Zakat. However, it has been established that Zakat Payer falls under the categories subject to Rules of Calculating Zakat for Estimate Taxpayers and that the Defendant has applied the equation to the sales declared in the VAT returns submitted by Zakat Payer. This indicates that ZATCA's procedure is correct. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), (ID No....), has filed an objection to ZATCA's estimated Zakat assessment for 1441 AH. The Plaintiff objects to the Defendant's action of conducting an estimated assessment, arguing that ZATCA has doubled the capital when calculating Zakat. The Plaintiff also explains that most of its purchases are made on credit with payments made over agreed-upon periods, and therefore requests that this be taken into consideration when calculating Zakat.

Upon reviewing the statement of claim, the Defendant stated that its Decision is in accordance with Articles (3) and (4) of Rules of Calculating Zakat for Estimate Taxpayers, issued by Minister of Finance's Decision No. (852) dated 28/02/1441 AH. Accordingly, Zakat base was calculated based on VAT sales.

On Monday, 14/03/2022 AD, the Department held a remote session to hear the Case. However, neither the Plaintiff nor its Representative was present, despite being duly



notified of the session date. Representative of the Defendant, (...) was present, holder of National ID No. (...), appeared pursuant to POA No. (.), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated ../ ../ ... AH. Having reviewed the Case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1441, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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: Upon careful examination of the documents included in the Case file and the requests, defenses, and arguments raised by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1441 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Moreover, Article (3) of the Rules of Calculating Zakat for Estimate Taxpayers, issued by Ministry of Finance Decision No. (852) dated 28/02/1441 AH, states: "The Zakat base of Zakat Payer subject to these rules shall be evaluated by identifying capital that is appropriate to the size of Zakat Payer's activity, according to the following equation: $[(Sales/8) + (Sales \times 15\%)]$ and not less than the capital stated in the commercial register or the licenses required for the activity or any other documents through which the Authority can determine the capital". Based on the foregoing, and upon reviewing the documents and facts of the Case, and since the Plaintiff falls into the category of taxpayers subject to Rules of Calculating Zakat for Estimate Taxpayers, the Defendant has the right to collect information and calculate the Plaintiff's Zakat using the estimated method in accordance with those rules that stipulate estimating the profits for the Plaintiff's activity at a rate of 15% of the sales declared in the VAT returns, and estimating the capital by dividing those sales by 8. Upon reviewing the disputed estimated assessment, it is clear that the Defendant has applied the above equation to the sales declared in the VAT returns submitted by the Plaintiff, which indicates the correctness of ZATCA's procedure. As for the Plaintiff's request to consider expenses when conducting the estimated assessment, calculating the Plaintiff's profit at a rate of 15% means that its estimated expenses constitute 85% of its revenue. Based on the foregoing, the Department decided to reject the Plaintiff's objection to estimated Zakat assessment for 1441 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Reject the objection filed by the Plaintiff (ID No.) regarding the estimated Zakat assessment for 1441 AH.



The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-583
Case No. Z-22361-2020

Key words:

Zakat - Estimated - Calculation of Zakat Base - Financial Statements - Statement of Number of Workers - VAT Returns

Abstract

Zakat Payer is requesting cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 1436 AH. Zakat Payer has filed an objection to the estimated Zakat assessment issued by ZATCA and requested a review. It has stated that it has already paid Zakat based on the estimated declaration. However, the Department has established that Zakat Payer has not provided any evidence to support its objection. Zakat Payer has not submitted supporting documents such as financial statements, a statement of the number of workers, or VAT returns. Furthermore, the Defendant (ZATCA) has adhered to the relevant regulations in carrying out its procedures. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- Paragraph (8) of Article (13) of [Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), holder of National ID No. (...), in his capacity as Owner of (...) Enterprise, under CR. No. (...), has filed an objection to the estimated Zakat assessment for 1436 AH, issued by ZATCA. The Plaintiff is requesting a review of this assessment and has stated that it has already paid Zakat based on the estimated declaration.

Upon reviewing the statement of claim, the Defendant stated that its Decision was in compliance with Article (13) of the Implementing Regulations for Zakat Collection, issued by Ministerial Decision No. (2082) dated 01/06/1438 AH. Zakat base was calculated based on the size of the business and the number of workers. Accordingly, ZATCA exercised its power granted to it pursuant to that, which authorizes it to hold Zakat Payer accountable in an estimated manner according to the information and data that ZATCA has the right, according to the powers granted to it by the law, to refer to in order to be able to calculate Zakat base that fairly reflects the reality of Zakat Payer's activity in light of the circumstances and facts related to the Case and information available about Zakat Payer



to ZATCA, either through what Zakat Payer provides of documented evidence and indications, or by referring directly and continuously to any information directly related to Zakat Payer that is kept by a third party, showing the size of Zakat Payer's imports, contracts, workers, and loans and subsidies it has received. The Esteemed Committee can be provided with data to support this claim upon request. As such, ZATCA maintains that its Decision, subject matter of the Case, is based on sound legal Grounds stated in its merits, and it is up to the Plaintiff to prove the invalidity of the Decision.

On Monday, 07/03/2022 AD, the Department held a remote session to hear the Case. Upon calling parties to the Case, the Plaintiff was not present, despite being dully notified of the session date. Representative of the Defendant, (...), was present holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .. / .. / .. AH. Having reviewed the Case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1436, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 carefully considered the documents of the Case file and the arguments presented by both parties, the Department has found that the dispute centers on the Defendant's issuance of an estimated Zakat assessment for 1436 AH. The Plaintiff objects to the Defendant's Decision to impose an estimate Zakat and requests a review, stating that it has already paid Zakat based on the estimated declaration. The Defendant, on the other hand, maintains that its Decision is valid, as Zakat base was calculated based on the size of the business and the number of workers. Article (13.8) of the Implementing Regulations for Zakat Collection, issued by the Minister of Finance's Decision No. (2028) dated 01/06/1438 AH, which pertains to determining Zakat base for those who do not maintain systematic accounts states: "8- When determining Zakat base using the estimated method, the Authority collects information that enables it to calculate Zakat base that fairly reflects Zakat Payer's actual activity in light of the circumstances, facts related to the Case, and information available to the Authority about Zakat Payer through the evidence and clues provided by Zakat Payer, as well as through field inspections and examinations conducted by the Authority, and any information obtained from other parties such as Zakat Payer's import volume, contracts, employees, loans, and grants".

Based on the foregoing, and given that the Plaintiff has not provided any evidence to support its objection, such as financial statements, a statement of the number of workers, or VAT returns, and given that the Defendant has followed the provisions of the



regulations in its procedures, the Department has decided to reject the Plaintiff's objection.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat assessment for 1436AH.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Income Tax Violations and Disputes

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

Decision No. IZJ-2022-595
Case No. Z-39803-2021

Key words:

Zakat - Estimated - Capital Shown in Commercial Register - Deletion of Commercial Register

Abstract

Zakat Payer is requesting cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 1438 AH. Zakat Payer has filed an objection to ZATCA's estimated Zakat assessment for 1438 AH. The Plaintiff claims that he did not complete the procedures to open the establishment and did not actually start engaging in commercial activities. He only opened the commercial register more than four years ago, and its validity expired one year after its issuance. Now, he has completed the procedures to cancel the establishment to avoid future Zakat declarations. As such, Zakat Payer is requesting a refund of the amount paid to file the objection and to cancel Zakat assessment. The Department has established that Zakat Payer is assessed based on the capital shown in the commercial register, and Zakat Payer has not provided any evidence of the cancellation of the commercial register prior to the disputed year. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
 - [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

C

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), holder of National ID No. (...), In his capacity as Owner of (...) Enterprise, CR. No. (...), has filed an objection to ZATCA's estimated Zakat assessment for 1438 AH The Plaintiff claims that he did not complete the procedures to open the establishment and did not actually start engaging in commercial activities. He only opened the commercial register more than four years ago, and its validity expired one year after its issuance. Now, he has completed the procedures to cancel the establishment to avoid future zakat declarations. As such, Zakat Payer is requesting a refund of the amount paid to file the objection and to cancel Zakat assessment.



Upon reviewing of the statement of claim, the Defendant stated that its Decision was in compliance with Articles (3) and (4) of the Rules of Calculating Zakat for Estimate Taxpayers, issued by His Excellency the Minister of Finance under Decision No. (852) dated 28/02/1441 AH. Zakat base was accordingly calculated based on the capital recorded in the commercial register.

On Monday, corresponding to 21/02/2022 AD, the Department held a remote session to hear the Case. However, neither the Plaintiff nor its Representative was present, despite being duly notified of the session date. Representative of the Defendant, (...) was present. Holding ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .../.../... AH. Having reviewed the Case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form, the Plaintiff's purpose of this Case is to cancel ZATCA's Decision regarding the estimated Zakat assessment for 1438 AH. Since this dispute is considered one of the tax disputes that fall within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH and given that the Case was filed with valid Grounds, by an eligible party, and within the legally prescribed period, the Case is to be accepted in form.

On merits, Having examined the documents of the Case, and after considering the requests, defenses, and pleas of the parties, the Department has found that the dispute lies in the issuance of the estimated Zakat assessment for 1438 AH by the Defendant. The Plaintiff objects to the Defendant's action of conducting an estimated assessment and demands its amendment. Meanwhile the Defendant has maintained the validity of its Decision. Based on the foregoing, and upon reviewing the estimated assessment issued by ZATCA, it appears that the Plaintiff is assessed based on the capital shown in the commercial register, and that the Plaintiff has not provided any evidence of the cancellation of the commercial register prior to the disputed year. This leads the Department to conclude by rejecting the Plaintiff's objection to the estimated Zakat assessment for 1438 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Reject the objection filed by the Plaintiff (ID No.), regarding the estimated zakat assessment for 1438 AH.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-615
Case No. Z-26956-2020

Key words:

Zakat - Estimated - Sales - Estimated Method - Zakat Base

Abstract

Zakat Payer is requesting cancellation of ZATCA's estimated Zakat assessment for 1440 AH. Zakat Payer objects to the Defendant's action of conducting an estimated assessment, arguing that ZATCA has calculated Zakat base twice on the same sales value. The first calculation was for Zakat assessment of 1438 AH. Zakat base was calculated based on contracts concluded with government entities before the contracts were executed and the full amount was paid by Zakat Payer for the entire value of the contracts, which had a duration of three years. The second calculation was for Zakat assessment of 1440 AH, where Zakat base was calculated based on the amounts collected from the government contracts for only one year, the same contracts referred to earlier, after the execution of the contract. Zakat Payer has attached a statement of the extracts (sales) submitted for only one year for Zakat assessment of 1440 AH for the government contracts, which were calculated in Zakat assessment of 1438 AH. Since the Department gave the Defendant's Representative several sessions to respond, and no response was provided, Therefore, the Department dismisses Zakat Payer's objection.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- [Article \(10\) of the Implementing Regulations of Zakat Law issued pursuant to Minister of Finance Decision No. \(2216\) dated 07/07/1440 AH](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), (ID No.) has filed an objection to the estimated Zakat assessment for 1440 AH issued by the ZATCA. The Plaintiff objects to the Defendant's action of conducting an estimated assessment, arguing that ZATCA has calculated Zakat base twice on the same sales value. The first calculation was for Zakat assessment of 1438 AH, Zakat base was calculated based on contracts concluded with government entities before the contracts were executed and the full amount was paid by Zakat Payer for the entire value of the contracts, which had a duration of three years. The second calculation was for Zakat assessment of 1440 AH, where Zakat base was calculated based on the amounts collected from the government contracts for



only one year, the same contracts referred to earlier, after the execution of the contract. The Plaintiff has attached a statement of the extracts (sales) submitted for only one year for Zakat assessment of 1440 AH for the government contracts, which were calculated in Zakat assessment of 1438 AH.

Upon reviewing the statement of claim, the Defendant responded that the principle is that the Decision is correct and valid, and it is upon the one who claims otherwise to prove the validity of their claim. Additionally, the Defendant stated that its Decision was in compliance with Articles (3) and (4) of the Rules of Calculating Zakat for Estimate Taxpayers, issued by Minister of Finance's Decision No. (852) dated 28/02/1441 AH. Accordingly, ZATCA exercised its power granted to it pursuant to that, which authorizes it to hold Zakat Payer accountable in an estimated manner according to the information and data that ZATCA has the right, according to the powers granted to it by the law, to refer to in order to be able to calculate Zakat base that fairly reflects the reality of Zakat Payer's activity in light of the circumstances and facts related to the Case and information available about Zakat Payer to ZATCA, either through what Zakat Payer provides of documented evidence and indications, or by referring directly and continuously to any information directly related to Zakat Payer that is kept by a third party, showing the size of Zakat Payer's imports, contracts, workers, and loans and subsidies it has received. The Esteemed Committee can be provided with documents to support this claim upon request. Thereupon, ZATCA confirms that its Decision subject matter of the Case is based on valid legal Grounds as stated in its reasoning. In addition, Plaintiff shall prove Decision invalidity.

On Sunday, corresponding to 02/01/2022 AD, the Department held its session remotely to consider the Case. At that session, the Plaintiff's Attorney (...), holder of National ID No. (...), appeared pursuant to POA No. (...). In addition, Defendant's Representative, holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .. / .. / ... AH. During the session, the Plaintiff's Representative argued that Zakat for the contract concluded with the Ministry of Education was paid by the contractor mentioned in the contract. The Department requested the Plaintiff's Representative to provide evidence of this payment and requested that it be attached to the website of the General Secretariat of Tax Committees within 15 days of the session. Therefore, the Department decided to adjourn the hearing to a later session, which was set for Wednesday, 26/01/2022, at 6:00 pm. The session concluded at 7:30 pm.

On Wednesday, corresponding to 26/01/2022 AD, the Department held its session remotely to consider the Case. At that session, the Plaintiff's Attorney (...), holder of National ID No. (...), appeared pursuant to POA No. (...). In addition, Defendant's Representative, holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .. / .. / ... AH. During the session, the Plaintiff's Representative was unable to present the documents supporting its objection due to a technical malfunction. Therefore, the Department decided to adjourn the hearing to a later session, which was set for Sunday, 06/02/2022, at 5:00 pm. The session concluded at 6:30 pm.

On Sunday, corresponding to 06/02/2022 AD, the Department held its session remotely to consider the Case. At that session, the Plaintiff's Attorney (...), holder of National ID No. (...), appeared pursuant to POA No. (...). In addition, Defendant's Representative, holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .. / .. / ... AH. During the session, the Department reviewed the documents submitted by the Plaintiff's Representative. The Defendant's Representative had not yet responded to the Case. The Department requested that the Defendant's Representative submit a response to the documents provided by the Plaintiff.



Therefore, the Department decided to adjourn the hearing to a later session, which was scheduled for Monday, 28/02/2022, at 6:00 pm. This session concluded at 05:30 pm.

On Monday, 28/02/2022 AD, the Department held its session remotely to consider the Case. At that session, the Plaintiff's Attorney (...), holder of National ID No. (...), appeared pursuant to POA No. (...). In addition, Defendant's Representative, holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .. / .. / ... AH. During the session, the Defendant's Representative did not submit a response to the subject matter of the Case, and since the Department granted the Defendant's Representative several sessions to submit a response, therefore the Department decided to adjourn the hearing for deliberation, in preparation for issuing a ruling.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1440, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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, Upon careful examination of the documents contained in the Case file and the requests, defenses, and arguments presented by both parties, the Department has found that the dispute lies in Defendant's issuance of an estimated Zakat assessment for 1440 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Article (10) of the Implementing Regulations for Zakat Collection, issued by Minister of Finance's Decision No. (2216) dated 07/07/1440 AH, stipulates that "The Authority shall account on deemed basis for each Zakat Payer with no commercial books to reflect the reality of business activity and under no obligation to issue financial statements in accordance with applicable regulations, related Bye- Laws and rules, subject to the following: 1. Zakat Payer's declaration shall be considered, where it is higher than the Authority's assessment. 2. The Authority, where Zakat Payer's contracts are found to be based on cost method plus a specific margin, may consider such margin stipulated in the contract except for, however, the contracts with related parties. 3. Where the information available with the Authority contradict those provided by the Zakat Payer the Authority may consider the information available with it. 4. Zakat Payer's information available with the Authority may be used for guidance in calculating Zakat on Zakat Payer on deemed basis. 5. The first Zakat Year of a Zakat Payer accounted for on deemed basis shall commence in accordance with Levy of Zakat Bye-Laws Article 13 unless otherwise a different date acceptable to the Authority is proven by the Zakat Payer to be the commencement of business activity date. 6. The Authority may set the minimum and maximum limits of the components to be used for the assessment of Zakat Base of a Zakat Payer accounted for on deemed basis, depending on the particular city, business season, events and any circumstances affecting the assessment. 7. The Authority may



amend deemed calculation method, where such amendment is deemed necessary by the Authority to match the update of regulations, change in the market circumstances and Zakat Payers' behavior. 8. The Authority may reallocate revenue and expenses for inter-related party transactions or such transactions with parties capable of affecting the acts and Decisions of Zakat Payer, whether directly or indirectly, or otherwise Zakat Payer's affiliated parties, as to reflect the revenue that would have been earned had the transactions been made with independent and unrelated parties. Based on the foregoing, and given that the Department requested the Defendant's Representative to submit a substantive response to the arguments presented by the Plaintiff's Representative, and in particular to the contract in dispute between the Plaintiff and the Ministry of Education; and given that the Department granted the Defendant's Representative several sessions to submit a response, which was not submitted; the Department therefore concludes by accepting the Plaintiff's objection to the estimated Zakat assessment for 1440 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Accept the objection filed by the Plaintiff (.....) (ID No.), regarding the estimated Zakat assessment for 1440 AH.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Key words:

Zakat - Estimated - Import Volume - Estimated Profits - Working Capital Estimated by Sales Price - Revenues

Abstract

Zakat Payer is requesting cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 1441 AH. Zakat Payer objects to the Defendant's action of conducting an estimated assessment, arguing that the amount imposed on it for that period is excessive. It claims that during that period, the COVID-19 pandemic caused a complete work stoppage, significantly impacting the enterprise and the overall market situation. Business activities came to a standstill as compared to previous periods. Zakat Payer notes that tax returns demonstrate a decrease in income and a corresponding decrease in the amount of tax due, resulting from the general market shutdown. Despite this, the Enterprise continued to bear the costs and expenses of employees, such as housing and salaries, which burdened the Enterprise. As such, Zakat Payer requests a reduction in both Zakat and income amounts to enable it to pay the dues, reopen the system, and resume normal business operations. The Department has established that Zakat Payer does not maintain records that reflect the actual activity of the Enterprise, and that the estimated profit margin for the Plaintiff is 15% of its revenue, it follows that its estimated expenses constitute 85%. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summarized as follows: The Plaintiff (...), holder of National ID No. (...), In his capacity as Owner of the Enterprise, C.R. No. (...) has filed an objection to ZATCA's estimated Zakat assessment for 1441 AH. The plaintiff objects to the Defendant's action of conducting an estimated assessment, arguing that the amount imposed on it for that period is excessive. It claims that during that period, the COVID-19 pandemic caused a complete work stoppage, significantly impacting the enterprise and the overall market situation. Business activities came to a standstill as compared to



previous periods. The Plaintiff notes that tax returns demonstrate a decrease in income and a corresponding decrease in the amount of tax due, resulting from the general market shutdown. Despite this, the Enterprise continued to bear the costs and expenses of employees, such as housing and salaries, which burdened the Enterprise. As such, the Plaintiff requests a reduction in both Zakat and income amounts to enable it to pay the dues, reopen the system, and resume normal business operations.

Upon reviewing the statement of claim, the Defendant responded that its Decision was in accordance with Articles (3) and (4) of the Rules of Calculating Zakat for Estimate Taxpayers, issued by Minister of Finance's Decision No. (852) dated 28/02/1441 AH. Therefore, ZATCA exercised its powers granted to it under that Decision, which authorizes it to impose zakat on Zakat Payer on an estimated basis according to the information and data obtained by ZATCA as per the powers granted to it by the law.

On Monday, 21/03/2022, the Department held its session remotely to consider the Case. At that session, the Plaintiff's Attorney (...), holder of ID No. (...) was present under POA No. (...). In addition, Defendant's Representative, holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .../.../... AH. Having asked parties to the Case about what they would like to add, they were satisfied with their earlier submissions. Accordingly, the Department decided to adjourn the session for deliberation before delivering its Decision.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

As for the formal aspect, the Plaintiff moving this case to cancel ZATCA's Decision regarding the estimated Zakat assessment for 1441, and since this dispute is considered one of the tax disputes that fall within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH and given that the Case was filed with valid Grounds, by an eligible party, and within the legally prescribed period, the case is to be accepted in form.

On merits, Upon careful examination of the documents contained in the Case file and the requests, defenses, and arguments presented by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1441 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Article (3) of Rules of Calculating Zakat for Estimate Taxpayers issued by Minister of Finance Decision No. (852) dated 28/02/1441 AH, which is applicable to zakat declarations submitted after 31/12/2019 AD states: "Zakat base for a Zakat Payer subject to these rules is estimated by determining a capital that is commensurate with the size of Zakat Payer's activity according to the following equation: $[(\text{Sales}/8) + (\text{Sales} \times 15\%)]$ and not less than the capital stated in the commercial register or the licenses required for the activity or any other documents through which the authority can determine the capital". Based on the foregoing, and in absence of accurate information reflecting the extent of the Plaintiff's activities, the Defendant is entitled to conduct or re-conduct an estimated assessment if data or information emerges that reflects the actual extent of the Plaintiff's activities. The Defendant is entitled to collect information and calculate zakat for Zakat Payer on an estimated basis. One of the



important indicators that can be used to determine zakat due on an establishment is the size of its imports, contracts, workforce, loans and grants received. Moreover, Minister of Finance's Decision No. (852) dated 28/02/1441 AH indicates that the profit estimate for the Plaintiff's activity is 15%, which was applied to estimate its profits. The Decision also indicates that working capital is estimated at sale price. Since the Plaintiff does not maintain records that reflect the actual activity of the Enterprise, and since the estimated profit margin for the Plaintiff is 15% of its revenue, it follows that its estimated expenses constitute 85%. Based on the foregoing, the Department has decided to reject the Plaintiff's objection to the estimated zakat assessment for 1441 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Reject the objection filed by the Plaintiff (.....), holder of National ID No. (...), to estimate zakat assessment for 1441.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-632
Case No. Z-29267-2020

Key words:

Zakat - Estimated - Capital Recorded in Commercial Register - Zakat Base - Capital Increase

Abstract

Zakat Payer is requesting cancellation of ZATCA's Decision regarding the estimated zakat assessment for 1426 AH. The Plaintiff objects to the Defendant's action of conducting an estimated assessment, arguing that ZATCA based the assessment on the capital shown in the commercial register without taking into consideration that the capital in the disputed year was (SAR 50,000), while ZATCA relied on the capital shown in the current commercial register (SAR 200,000). Therefore, the Plaintiff requests that zakat calculation be amended according to the capital prior to the adjustment. The Department has established that Zakat Payer submitted the commercial register for 1426 AH and it was shown that the approved capital was (SAR 50,000), and that Zakat Payer increased the capital to (SAR 200,000) in 1430 AH. As such, it is necessary to amend ZATCA's Decision by adopting the capital of (SAR 50,000) before the amendment for 1426 AH. Therefore, the Department decided to amend the Defendant's action.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- Paragraph (6) and Paragraph (6/b) of Article (13) of [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), (ID No.) has filed an objection to ZATCA's Decision regarding the estimated zakat assessment for 1426 AH. The Plaintiff objects to the Defendant's action of conducting an estimated assessment, arguing that ZATCA based the assessment on the capital shown in the commercial register without taking into consideration that the capital in the disputed year was (SAR 50,000), while ZATCA relied on the capital shown in the current commercial register (SAR 200,000). Therefore, the Plaintiff requests that zakat calculation be amended according to the capital prior to the adjustment.

Upon reviewing the statement of claim, the Defendant stated that its Decision was in compliance with Articles (3) and (4) of the Rules of Calculating Zakat for Estimate



Taxpayers, issued by Minister of Finance's Decision No. (852) dated 28/02/1441 AH, where zakat base was calculated based on the capital recorded in the commercial register. Accordingly, ZATCA exercised its power granted to it pursuant to that, which authorizes it to hold Zakat Payer accountable in an estimated manner according to the information and data that ZATCA has the right, according to the powers granted to it by the law, to refer to in order to be able to calculate zakat base that fairly reflects the reality of Zakat Payer's activity in light of the circumstances and facts related to the case and information available about Zakat Payer to ZATCA, either through what Zakat Payer provides of documented evidence and indications, or by referring directly and continuously to any information directly related to Zakat Payer that is kept by a third party, showing the size of Zakat Payer's imports, contracts, workers, and loans and subsidies it has received. The Esteemed Committee can be provided with documents to support this claim upon request. Thereupon, ZATCA confirms that its Decision subject matter of the Case is based on valid legal Grounds as stated in its reasoning. In addition, Plaintiff shall prove Decision invalidity.

On Monday, corresponding to 21/03/2022 AD, the Department held a remote session to hear the Case However, neither the Plaintiff nor its Representative was present, despite being duly notified of the session date. Representative of the Defendant, (...) was present. Holding ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated ../ Having reviewed Case file and since the Case was ripe for adjudication as per provisions of Article (20) Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering a Decision.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form, the Plaintiff's purpose of this Case is to cancel ZATCA's Decision regarding the estimated Zakat assessment for 1426AH. Since this dispute is considered one of the tax disputes that fall within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH and given that the Case was filed with valid Grounds, by an eligible party, and within the legally prescribed period, the Case is to be accepted in form.

On merits, Upon careful examination of the documents contained in the Case file and the requests, defenses, and arguments presented by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1426 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Article (13.6) of the Implementing Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH states: "6. Estimate zakat base consists of the following unless Zakat Payer's declaration shows a larger base: A. Working capital shall be determined by any available means, whether through the commercial register, company contracts and articles of association or any other supporting document. If it turns out that the actual working capital differs from the same, ZATCA shall be entitled to determine it in proportion to the volume of activity and the number of capital cycles according to industry, trade or business norms. b. The net



profits realized during the year, which are estimated at a minimum of 15% of the total revenue except for the following categories.....” Based on the foregoing, and upon reviewing the data submitted by both parties, the Department has established that the Plaintiff is not among the categories required to maintain systematic records and registers. The Defendant is therefore entitled to collect information and calculate zakat for the Plaintiff on an estimated basis pursuant to Paragraph (6/b) of Article (13) of the Regulations. In accordance with the information that reflects the true nature and reality of the Plaintiff's activity, and upon reviewing the documents submitted in the Case file, it appears that the Defendant assessed the Plaintiff based on the capital recorded in the commercial register. However, for the assessment issued for 1426 AH, the Defendant should have considered the value of the capital registered in the year of assessment. Upon reviewing the Case file, the Plaintiff submitted the commercial register for 1426 AH, and it was clear that the approved capital was (SAR 50,000), and that the Plaintiff increased the capital to (SAR 200,000) in 1430 AH. Therefore, ZATCA's Decision must be amended by adopting the capital of (SAR 50,000) before the amendment for 1426 AH. Accordingly, the Department has decided to amend ZATCA's Decision by adopting the capital of (SAR 50,000) before the amendment for 1426 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Amend the Defendant's procedure regarding the estimated Zakat assessment for 1426AH. The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-647
Case No. Z-3845-2019

Key words:

Zakat - Estimated - Commercial Register - Calculation of Zakat Base - VAT Returns - Actual Profit Margin

Abstract

Zakat Payer is requesting cancellation of ZATCA's Decision regarding the estimated zakat assessment for 1439 AH. Zakat Payer objects to the estimated zakat assessment for 1439 AH, issued by ZATCA, as the assessor carried out an estimated calculation of the sales due to Zakat Payer's failure to submit invoices on time. Upon reviewing the invoices, it became clear to Zakat Payer that the profit margin estimated by the assessor was 10% of the import value, while the actual profit margin was 1% according to the contracts concluded with customers, as we do not own the goods but are merely intermediaries between the seller and the buyer, and this has been the case for a long time. The Department has established that the Defendant conducted the estimated assessment and determined zakat base according to the VAT returns. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Article \(20.3\) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), holder of National ID No. (...), in his capacity as the Owner of (... Enterprise), CR. No.(...), by the Commercial Register, has filed an objection to ZATCA's estimated zakat assessment for 1439 AH, as the assessor carried out an estimated calculation of the sales due to Zakat Payer's failure to submit invoices on time. Upon reviewing the invoices, it became clear to Zakat Payer that the profit margin estimated by the assessor was 10% of the import value, while the actual profit margin was 1% according to the contracts concluded with customers, as we do not own the goods but are merely intermediaries between the seller and the buyer, and this has been the case for a long time.

Upon reviewing the statement of claim, the Defendant responded by stating that it assessed Zakat Payer on an estimated basis, guided by the VAT returns. The Defendant based its action on Article (13) of the Implementing Regulations for Zakat Collection



issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, whereby the Authority collects information that enables it to calculate zakat base that fairly reflects Zakat Payer's actual activity in light of the circumstances, facts related to the case, and information available to the Authority about Zakat Payer through the evidence and clues provided by Zakat Payer, as well as through field inspections and examinations conducted by the Authority, and any information obtained from other parties such as Zakat Payer's import volume, contracts, employees, loans, and grants received.

On Sunday, corresponding to 07/02/2021 AD, the Department held its session remotely to consider the Case. At that session, the Plaintiff's Attorney (...) was present holder of National ID No. (...), appeared By POA No. (...). Additionally, the Defendant's Representative (...) was present holder of National ID No. (...), appeared By Authorization No. (...) dated .../.../... AH, issued by ZATCA's Vice Governor for Legal Affairs, During the session, The Plaintiff's Representative stated that the estimated zakat assessment carried out by ZATCA was based on an estimate by zakat examiner of VAT sales, and this tax is still subject to a dispute before the Department to Adjudicate Value Added Tax Violations and Disputes. Given that the VAT tax sales invoice is subject to a dispute before the competent judicial department for VAT disputes, and that the estimated zakat assessment was issued based on the VAT sales invoice, and that the determination of the validity of the estimated zakat assessment is linked to the issuance of a judicial ruling related to VAT sales, therefore, the Department unanimously decided as follows: Suspend proceedings in the Case pursuant to Article (33) of the Tax Dispute and Violation Committee Procedures.

On Monday, corresponding to 21/03/2022 AD, the Department held a remote session to hear the Case However, neither the Plaintiff nor its Representative was present, despite being duly notified of the session date. Representative of the Defendant, (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .../.../... AH. Having reviewed the case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1439, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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, Upon careful examination of the documents contained in the Case file and the requests, defenses, and arguments presented by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1439 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has



maintained the validity of its Decision. Moreover, Article (20.3) of the Implementing Regulations for Zakat Collection states: “The burden of proof regarding the accuracy of the items listed in the Zakat payer's declaration, as well as any other data, lies with the Tax Payer. In case of the Zakat Payer's failure to prove the accuracy of the information reported, the Authority may disallow such item not proven to be correct by Zakat Payer, or otherwise raise assessment on deemed basis at the Authority's discretion in view of the surrounding circumstances, facts and information available with the Authority”. It is evident from the foregoing that the calculation of zakat base is based on the declaration submitted by Zakat Payer, and it is incumbent upon it to provide evidence to support what is stated in its declaration. In the absence of systematic records and registers, ZATCA is entitled to resort to the estimated method for the purpose of calculating zakat by collecting information that it can obtain from other sources to arrive at the closest estimate of Zakat Payer's actual activity. The Plaintiff submitted a copy of CR. No. (...) with a capital of (SAR 30,000), in the name of the trader (...), In connection with wholesale and retailing of men's , women's, children's clothing, and accessories. ZATCA made an estimated assessment and determined zakat base according to VAT returns. While Zakat Payer claims that the actual profit margin is 1% according to the contracts concluded with its customers, and that it does not own the goods but is merely an intermediary between the seller and the buyer, the Plaintiff has not also provided any evidence to support its claims, which necessitates considering its claim as unsubstantiated and without any basis. Therefore, the Department has decided to reject Zakat Payer's appeal.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

C.

Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat assessment for 1439 AH.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-657
Case No. Z-22015-2020

Key words:

Zakat - Accounts - Zakat Base - Related Parties - Adding Balance Due - Financial Statements - Addition of Zakatable Assets to Zakat Base
C

Abstract

Zakat Payer is requesting cancellation of ZATCA's Decision regarding zakat assessment for 2018. Zakat Payer's objection is specifically focused on item (related parties). Zakat Payer objects to the inclusion of outstanding balances to related parties in zakat base, arguing that ZATCA has incorrectly classified the Director General's salary as a related party transaction. However, after examining item (related parties), the Department found that the disputed amounts indeed constitute related party transactions based on the external auditor's report, as stated by Zakat Payer in its objection. Therefore, the Department has decided to include these balances in zakat base. Therefore, the Department ruled to reject Zakat Payer's objection regarding item (Related Parties).

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Article \(4.5/a\) and Article \(20.3\) of of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summed up as follows: Mr....., National ID No. (...) in his capacity as Representative of the Plaintiff (.....Co.), CR No. (...), as per the Company's AOA, has filed an objection to ZATCA's zakat assessment for 2018. The Plaintiff's objection is specifically focused on item (related parties). The Plaintiff objects to the inclusion of outstanding balances to related parties (...) in zakat base. ZATCA has included the outstanding balance to (...) as a related party, which is the Director General's salary. The Plaintiff argues that this should not be classified as a related party transaction. Upon reviewing the statement of claim, the Defendant, regarding item (related parties), stated that it added the amount related to related parties in accordance with the audited financial statements prepared by the Plaintiff. These financial statements were prepared in accordance with the International Financial Reporting Standard for Small and Medium-sized Entities (IFRS for SMEs) adopted in KSA, and the aforementioned classification was used in the balance sheet.



On Monday, 07/03/2022 AD, the Department held a remote session to hear the Case. However, the Plaintiff's Representative was not present, despite being duly notified of the session date. Representative of the Defendant, (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .././.. AH. Having reviewed the case file and since the case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds

Having taken cognizance of Zakat Law promulgated by Royal Decree No. (17/28/577) of 14/03/1376 AH, and its Implementing Regulations issued by the Minister of Finance's Decision No. (2082) dated: 01/06/1438 AH, as amended, and 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), dated 11/06/1425 AH, as amended, and the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040), dated 21/04/1441 AH. and the relevant Laws and regulations.

In form, the Plaintiff seeks by this Case to cancel ZATCA's Decision regarding Zakat assessment for 2018, and given that this dispute is a tax dispute, it falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes pursuant to Royal Order No. (26040), dated 21/04/1441 AH. Since the Case was filed by a party with legal capacity and within the prescribed statutory period, it is incumbent upon this Department to accept the Case in form.

On Merits: Having taken cognizance of documents included in Case file, requests, defenses and pleas raised by the parties, the Department found that the dispute lies in the Defendant's issuance of zakat assessment for 2018. The Plaintiff's objection is specifically focused on the inclusion of outstanding balances to related parties (...) In zakat base, particularly ZATCA's addition of the balance due to Adnan Al-Nahdi as a related party. The Plaintiff argues that this amount represents the Director General's salary and should not be classified as a related party transaction. However, the Defendant argued stating that it included the amount pertaining to related parties in accordance with the audited financial statements prepared by the Plaintiff. These financial statements were prepared in accordance with the IFRS for SMEs adopted in KSA, and the aforementioned classification was used in the balance sheet. Article (4.5/a) of the Implementing Regulations for Zakat Collection, issued by Ministerial Decision No. (2082), dated 01/06/1438 AH states: "The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 5- Government and commercial loans and similar other sources of financing such as creditors, payment papers, and overdraft accounts owed by the Zakat payer which: A. remained in cash and had a year passed on it. B. were used to finance acquisition assets. C. The portion used for trading assets and for which a full year has passed". Additionally, Article (20.3) of the same Regulations states: "The zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the zakat payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it". Based on the foregoing, related party liability shall be considered a source of financing and shall be handled as equity in terms of zakat calculation. Consequently, any amount held for more than a lunar year must be included in zakat base. Upon reviewing the documents in the Case file, it is evident that the disputed amounts constitute related party transactions based on the external auditor's report, as stated by the Plaintiff in its objection. Therefore,



the Department has decided to include these balances in zakat base, resulting in the rejection of the Plaintiff's objection.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss objection filed by Plaintiff (... Company), CR No. (...) regarding the item (related parties).

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

Decision No. IZJ-2022-661
Case No. Z-31938-2020

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

Key words:

Zakat - Estimated - Capital Shown in Commercial Register - Deletion of Commercial Register

Abstract

Zakat Payer is requesting cancellation of ZATCA's estimated zakat assessment for 1427 AH. Zakat Payer objects to ZATCA's estimated zakat assessment based on the capital recorded in the commercial register. Zakat Payer claims that he does not have any capital and has not conducted any business activities, and therefore, he has not submitted any tax returns. He was surprised to receive tax returns and invoices from ZATCA for 8 periods (17 years ago) starting from 1426 AH. Zakat Payer has requested ZATCA to cancel these invoices, but ZATCA required him to make a partial payment to complete the objection process. Zakat Payer's objection was rejected by ZATCA based on the Implementing Regulations issued by Ministerial Decision No. (2216) dated 07/07/1440 AH and the Rules of Calculating Zakat for Estimate Taxpayers. Zakat Payer pointed out that these regulations apply to tax returns submitted after 31/12/2019 and therefore do not apply to the disputed years. Therefore, Zakat Payer is requesting that no zakat be calculated and that all amounts paid to ZATCA be refunded, and that his file at ZATCA be closed due to lack of capital and absence of any business activities. The Department has established that Zakat Payer is assessed based on the capital shown in the commercial register, and Zakat Payer has not provided any evidence of the cancellation of the commercial register. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), holder of National ID No. (...), in his capacity as the Owner of (... Enterprise), C.R. No. (...) has filed an objection to ZATCA's estimated zakat assessment for 1427 AH based on the capital recorded in the commercial register. The Plaintiff claims that he does not have any capital and has not conducted any business activities, and therefore, he has not submitted any tax returns. He was surprised to receive tax returns and invoices from ZATCA for 8 periods (17 years ago)



starting from 1426 AH. The Plaintiff has requested ZATCA to cancel these invoices, but ZATCA required him to make a partial payment to complete the objection process. Zakat Payer's objection was rejected by ZATCA based on the Implementing Regulations issued by Ministerial Decision No. (2216) dated 07/07/1440 AH and the Rules of Calculating Zakat for Estimate Taxpayers. The Plaintiff pointed out that these regulations apply to tax returns submitted after 31/12/2019 and therefore do not apply to the disputed years. Therefore, the Plaintiff is requesting that no zakat be calculated and that all amounts paid to ZATCA be refunded, and that his file at ZATCA be closed due to lack of capital and absence of any business activities.

Upon reviewing the statement of claim, the Defendant stated that its Decision was in compliance with Articles (3) and (4) of the Rules of Calculating Zakat for Estimate Taxpayers, issued by Minister of Finance's Decision No. (852) dated 28/02/1441 AH, where Zakat base was calculated based on the capital in the commercial register. Zakat base was calculated based on the capital recorded in the commercial register, amounting to (SAR 50,000), with zakat amount of (SAR 1,250). Accordingly, ZATCA exercised its power granted to it pursuant to that, which authorizes it to hold Zakat Payer accountable in an estimated manner according to the information and data that ZATCA has the right, according to the powers granted to it by the law, to refer to in order to be able to calculate zakat base that fairly reflects the reality of Zakat Payer's activity in light of the circumstances and facts related to the case and information available about Zakat Payer to ZATCA, either through what Zakat Payer provides of documented evidence and indications, or by referring directly and continuously to any information directly related to Zakat Payer that is kept by a third party, showing the size of Zakat Payer's imports, contracts, workers, and loans and subsidies it has received. Therefore, ZATCA maintains that its Decision, subject matter of the Case, is based on sound legal Grounds stated in its merits, and it is up to the Plaintiff to prove the invalidity of the Decision.

On Sunday, corresponding to 27/02/2022 AD, the Department held its session remotely to consider the Case. At that session, the Plaintiff (...) was present, holder of National ID No. (...), appeared pursuant to the commercial registration attached to the Case file. Also, attended the Defendant's Representative (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .../.../... AH. Having asked parties to the Case about what they would like to add, they were satisfied with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation before adjudication.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1427, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 documents of the Case, and after considering the requests, defenses, and pleas of the parties, the Department has found that the dispute lies in the issuance of the estimated Zakat assessment for 1427 AH by the Defendant. The Plaintiff objects to the Defendant's action of conducting an estimated assessment and demands its amendment. Meanwhile the Defendant has maintained the validity of its Decision. Based on the foregoing, and upon reviewing the estimated assessment issued by ZATCA, it appears that the Plaintiff is assessed based on the capital shown in the commercial register, and that the Plaintiff has not provided any evidence of the cancellation of the commercial register. This leads the Department to conclude by rejecting the Plaintiff's objection to the estimated Zakat assessment.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated zakat assessment for 1427 AH.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Key words:

Zakat - Estimated - VAT Returns - Categories Not Required to Keep systematic Books and Records - Sales Declared in VAT Returns - Contract Deficiency

Abstract

Zakat Payer is requesting cancellation of ZATCA's Decision regarding the estimated zakat assessment for 1440 AH and 1441 AH. Zakat Payer objects to the Defendant's action of conducting an estimated assessment and explains that, with respect to zakat for 1441 AH, zakat was estimated by ZATCA based on the sales amounts for Q3 and Q4 of 2019 and Q1 and Q2 of 2020. Zakat Payer claims that the actual profit margin for the Company (contracting activities) does not exceed 7% of the sales value, whereas the profit margin based on the newly developed equation for calculating estimated zakat is 15%. Consequently, the profit margin according to the newly developed equation is much higher than the actual margin. The Department has established that Zakat Payer belongs to the category not required to keep systematic records and registers, and upon reviewing the attached statement of account of contracts, it appears that the contracts appear with the same party with different numbers and dates, and Zakat Payer has not attached copies of the contracts or any evidence to prove that it has submitted a request to correct the error as it claimed, with supporting documents and evidence. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- Paragraph (6) and Paragraph (6/b) of Article (13) of [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

C.

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), (ID No.), has filed an objection to the estimated zakat assessment for 1440 AH and 1441 AH, Issued by ZATCA. The Plaintiff objects to the Defendant's action of conducting an estimated assessment and explains that, with respect to zakat for 1441 AH, zakat was estimated by ZATCA based on the sales amounts for Q3 and Q4 of 2019 and Q1 and Q2 of 2020. The Plaintiff claims that



the actual profit margin for the Company (contracting activities) does not exceed 7% of the sales value, whereas the profit margin based on the newly developed equation for calculating estimated zakat is 15%. Consequently, the profit margin according to the newly developed equation is much higher than the actual margin. Regarding zakat for 1440 AH, Zakat Payer states that zakat for contracts concluded with the government through (...) platform (government invoices) was calculated based on the information from the platform. However, it has been recently discovered that there was an error in the contracts registered on the platform, as one of the contracts was duplicated twice with the same name and the same amount, and we are in the process of correcting this error. As for zakat for 1441 AH, we were assessed regarding zakat as mentioned above based on the sales in the VAT returns, which include the sales of government contracts concluded. Consequently, there has been a double calculation of zakat. In 1440 AH, the entire value of the contract was calculated, but in reality, the contract was executed according to the payments received in 1441 AH and appeared in the tax returns for that year.

Upon reviewing the statement of claim, the Defendant stated that its Decision was in compliance with Articles (3) and (4) of the Rules of Calculating Zakat for Estimate Taxpayers, issued by Minister of Finance's Decision No. (852) dated 28/02/1441 AH, where zakat base was calculated based on VAT returns. Accordingly, ZATCA exercised its power granted to it pursuant to that, which authorizes it to hold Zakat Payer accountable in an estimated manner according to the information and data that ZATCA has the right, according to the powers granted to it by the law, to refer to in order to be able to calculate zakat base that fairly reflects the reality of Zakat Payer's activity in light of the circumstances and facts related to the case and information available about Zakat Payer to ZATCA, either through what Zakat Payer provides of documented evidence and indications, or by referring directly and continuously to any information directly related to Zakat Payer that is kept by a third party, showing the size of Zakat Payer's imports, contracts, workers, and loans and subsidies it has received. The Esteemed Committee can be provided with documents to support this claim upon request. Thereupon, ZATCA confirms that its Decision subject matter of the Case is based on valid legal Grounds as stated in its reasoning. In addition, Plaintiff shall prove Decision invalidity.

On Monday, 28/03/2022 AD, the Department held a remote session to hear the Case. However, neither the Plaintiff nor its Representative was present, despite being duly notified of the session date. Representative of the Defendant, (...) was present, holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated ../ ../ ... AH. Having reviewed the Case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

As for the formal aspect, the Plaintiff is moving this case to cancel ZATCA's Decision regarding the estimated Zakat assessment for 1440 AH and 1441 AH, and since this dispute is considered one of the tax disputes that fall within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes, pursuant to Royal Order No.



(26040) dated 21/04/1441 AH and given that the Case was filed with valid Grounds, by an eligible party, and within the legally prescribed period, the case is to be accepted in form. On merits, Upon careful examination of the documents contained in the Case file and the requests, defenses, and arguments presented by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1440 AH and 1441 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Article (13.6) of the Implementing Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH stipulates: "6. Estimate zakat base consists of the following unless Zakat Payer's declaration shows a larger base: A. Working capital shall be determined by any available means, whether through the commercial register, company contracts and articles of association or any other supporting document. If it turns out that the actual working capital differs from the same, ZATCA shall be entitled to determine it in proportion to the volume of activity and the number of capital cycles according to industry, trade or business norms. "b. Net profits realized during the year, which are estimated at a minimum of 15% of total revenues...". Based on the foregoing, and upon reviewing the data submitted by both parties, and since the Plaintiff falls within the category subject to Rules of Calculating Zakat for Estimate Taxpayers, the Defendant has the right to collect information and calculate the Plaintiff's Zakat using the estimated method in accordance with those rules, which stipulate estimating the profits for the Plaintiff's activity at a rate of 15% of the sales declared in the VAT returns, and estimating the capital by dividing those sales by 8. Upon reviewing the disputed estimated assessment, it is clear that the Defendant has applied the above equation to the sales declared in the VAT returns submitted by the Plaintiff, which indicates the correctness of ZATCA's procedure. As for 1440 AH, the dispute lies in the Plaintiff's objection to the rate applied when calculating zakat base using the estimated method. Since the Plaintiff belongs to categories not required to keep systematic records and registers, the Defendant is entitled to collect information and calculate zakat on the Plaintiff using the estimated method pursuant to Article (13.6/b)) of the Regulations, and according to the information that reflects the true nature and reality of the Plaintiff's activity. With regard to the Plaintiff's request to deduct the value of sales resulting from the duplicated contract in the contracts platform, and upon reviewing the attached statement of account of contracts, it appears that the contracts appear with the same party with different numbers and dates, and the Plaintiff has not attached copies of the contracts or any evidence to prove that it has submitted a request to correct the error as it claimed, with supporting documents and evidence. Based on the foregoing, the Department has decided to reject the Plaintiff's objection to the estimated zakat assessment for 1440 AH and 1441 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Reject the objection filed by the Plaintiffs (...), (ID No.), regarding the estimated zakat assessment for 1440 AH and 1441 AH.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-684
Case No. ZI-25880-2020

Key words:

Zakat - Estimated - Calculation of Zakat Base - Deletion of Commercial Register

Abstract

Zakat Payer is requesting cancellation of ZATCA's Decision regarding the estimated zakat assessments for 1426 AH, 1427 AH, and 1435 AH. . Zakat Payer objects to the Defendant's action of conducting estimated assessments, stating that he opened a commercial register in 1417 AH but did not use it, hire employees, or open a physical location due to ignorance. Moreover, Zakat Payer claims to have been paralyzed and states that ZATCA is demanding zakat for the past 25 years, despite the fact that Zakat Payer did not benefit from the register at all. Zakat Payer has paid a quarter of each invoice and is requesting a refund. The Department has established that the commercial register was canceled on 15/01/1441 AH. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- Paragraph (6/a) of Article (13) of [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), holder of National ID No. (...), in his capacity as the Owner of (... Enterprise), CR. No. (...), has filed an objection to ZATCA's Decision regarding the estimated zakat assessments for 1426 AH, 1427 AH, and 1435 AH. The Plaintiff objects to the Defendant's action of conducting estimated assessments, stating that he opened a commercial register in 1417 AH but did not use it, hire employees, or open a physical location due to ignorance. Moreover, the Plaintiff claims to have been paralyzed and states that ZATCA is demanding zakat for the past 25 years, despite the fact that the Plaintiff did not benefit from the register at all. The Plaintiff has paid a quarter of each invoice and is requesting a refund.

Upon reviewing the statement of claim, the Defendant stated that its Decision was in compliance with Articles (3) and (4) of the Rules of Calculating Zakat for Estimate Taxpayers, issued by Minister of Finance's Decision No. (852) dated 28/02/1441 AH. Accordingly, ZATCA exercised its power granted to it pursuant to that, which authorizes it to hold Zakat Payer accountable in an estimated manner according to the information



and data that ZATCA has the right, according to the powers granted to it by the law, to refer to in order to be able to calculate zakat base that fairly reflects the reality of Zakat Payer's activity in light of the circumstances and facts related to the case and information available about Zakat Payer to ZATCA, either through what Zakat Payer provides of documented evidence and indications, or by referring directly and continuously to any information directly related to Zakat Payer that is kept by a third party, showing the size of Zakat Payer's imports, contracts, workers, and loans and subsidies it has received. The Esteemed Committee can be provided with documents to support this claim upon request. Therefore, ZATCA maintains that its Decision, subject matter of the Case, is based on sound legal Grounds stated in its merits, and it is incumbent upon the Plaintiff to prove the invalidity of the Decision. The Defendant insists on the validity of its actions

On Monday, corresponding to 21/03/2022 AD, the Department held a remote session to hear the Case. However, neither the Plaintiff nor its Representative was present, despite being duly notified of the session date. Representative of the Defendant, (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated ../ ../ Since the Case has met all formal aspects and ready for adjudication as per Article (20) of the Tax Dispute Violation Committee Procedures, the Department decided to adjourn the session in preparation for delivering its Decision.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form, the Plaintiff's purpose of this case is to cancel ZATCA's Decision regarding the estimated Zakat assessment for 1426 AH, 1427 AH, 1437 AH. Since this dispute is considered one of the tax disputes that fall within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH and given that the Case was filed with valid Grounds, by an eligible party, and within the legally prescribed period, the case is to be accepted in form. On merits, Upon careful examination of the documents contained in the Case file and the requests, defenses, and arguments presented by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1426 AH, 1427 AH, and 1435 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Moreover, Article (13.6/a) of the Implementing Regulations for Zakat Collection states: "6. Estimate zakat base consists of the following unless Zakat Payer's declaration shows a larger base: a. Working capital, which shall be determined by any available method, whether from the commercial register, company contracts and bylaws, or any other supporting document. If it appears that the actual working capital differs, ZATCA shall determine it in a manner consistent with the size of the activity and the number of capital cycles according to the custom in each industry, trade, or business". Upon reviewing the Case file and the defenses and documents it included, it became clear that the Plaintiff had canceled its commercial register on 15/01/1442 AH; therefore, the Department decided to reject the Plaintiff's objection.

For the aforementioned Grounds, the Department unanimously decided as follows:



Decision:

Dismiss objection filed by Plaintiff (...), holder of National ID No. (...), Regarding estimated Zakat assessment for 1426 AH, 1427 AH, 1435 AH.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-685
Case No. Z-25411-2020

Key words:

Zakat - Estimated - Revenue Estimation - Sales Declared in VAT Returns - Capital Estimation - Revenues

Abstract

Zakat Payer is requesting cancellation of ZATCA's Decision regarding item (import difference) for 1438 AH. Zakat Payer claims that the value of external purchases was (SAR 13,274,007) and the value of customs duties was (SAR 662,862), making the total cost of external purchases (SAR 13,909,869). ZATCA excluded the amount of customs duties and considered it import profits, stating in its response that Zakat Payer had overstated the cost of purchases by this amount without providing a clear reason for rejecting the customs duty expense and considering its value an addition to the cost. All it mentioned in the reason for rejection were provisions of articles whose content is undisputed but do not apply to the subject matter of the Case, as they apply in cases where there is a difference between the amounts submitted by Zakat Payer and the amounts stated in the customs declaration, which does not apply to this situation. The Department has established that Zakat Payer has submitted supporting documents for the import differences regarding the disputed year. Therefore, the Department dismisses Zakat Payer's objection.

Instruments:

- [Zakat Law promulgated by Royal Order No. \(17/28/577\) dated 14/03/1376 AH](#)
- Article (42) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- Paragraph (6/a) of Article (5) of [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), holder of National ID No. (...), in his capacity as the Owner of (... Enterprise), Pursuant to C.R. No. (...), Has filed an objection regarding item (import difference) for 1438 AH. The Plaintiff claims that the value of external purchases was (SAR 13,274,007) and the value of customs duties was (SAR 662,862), making the total cost of external purchases (SAR 13,909,869). ZATCA excluded the amount of customs duties and considered it import profits, stating in its response that Zakat Payer had overstated the cost of purchases by this amount without providing a clear reason for rejecting the customs duty expense and considering its value an addition to the cost. All it mentioned in the reason for rejection were provisions of articles whose content is undisputed but do not apply to the subject matter of the Case, as they apply in cases



where there is a difference between the amounts submitted by Zakat Payer and the amounts stated in the customs declaration, which does not apply to this situation.

Upon reviewing the statement of claim, the Defendant responded by stating that the year result had been adjusted with item (import profit) by adding an amount of (SAR 662,867). The Plaintiff stated that the difference represents the value of customs duties. Referring to the Plaintiff's declaration in the automated system, it is clear that the Plaintiff declared external purchases of (SAR 13,247,007) and customs duties of (SAR 662,862), for a total of (SAR 13,909,869). External purchases recorded in ZATCA's system amounted to (SAR 13,247,007), with a difference of (SAR 662,862). Therefore, ZATCA did not accept the Plaintiff's argument, comparing what was stated in the Plaintiff's declaration regarding customs duties with what was recorded in ZATCA's system and adding the entire difference of (SAR 662,862), claiming that the Plaintiff had overstated the costs of purchases.

On Monday, 07/03/2022, the Department held its session remotely to hear the Case. Calling the parties to the Case, the Plaintiff (...) was present ID No. (...), In addition, the Defendant's Representative (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .. / .. / ..AH. Having asked parties to the Case about what they would like to add, they were satisfied with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation before adjudication.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form, the Plaintiff's purpose of this Case is to cancel ZATCA's Decision regarding the estimated Zakat assessment for 1438 AH. Since this dispute is considered one of the tax disputes that fall within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH and given that the Case was filed with valid Grounds, by an eligible party, and within the legally prescribed period, the Case is to be accepted in form.

On merits: Upon careful examination of the documents included in the Case file, as well as the requests and defenses raised by the parties, the Department has found that the dispute lies in the Defendant's issuance of Zakat assessment for 1438 AH, specifically regarding item (import difference) for the same year. The Plaintiff objects to ZATCA's action of excluding the amount of customs duties and considering it as import profits. Meanwhile, the Defendant argued that it compared the amount stated in the Plaintiff's declaration regarding customs duties with the amount recorded in ZATCA's system and added the entire difference of (SAR 662,862), claiming that the Plaintiff had overstated the costs of purchases. In accordance with Paragraph (1.A) of Article (5) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH that states: "The following expenses can be deducted to determine the net result of activity: 1. Expenses ordinary and necessary for an entity to engage in business activity, subject to meeting the following criteria: (a) That it is an actual expense supported by documentary evidence or other indications that enable the Authority to verify its accuracy, even if it relates to previous years". Based on the foregoing, and given that the dispute between the parties is a documentary one, and upon reviewing the documents



submitted by the Plaintiff, it is evident that imports amounted to (SAR 13,247,007) and customs duties amounted to (SAR 662,862), which are correct and consistent with what was stated in the Plaintiff's declaration. Furthermore, since the Plaintiff has provided supporting documents for the import differences for the disputed year, the Department has decided to accept the Plaintiff's objection to item (import difference) for 1438 AH. For the aforementioned Grounds, the Department unanimously decided as follows:

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Decision:

Accept the objection filed by the Plaintiff (.....) ID No. (...), regarding the estimated Zakat assessment for 1438 AH.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-691

Case No. Z-32414-2020

Key words:

Zakat - Estimated - Revenue Estimation - Sales Declared in VAT Returns - Capital Estimation - Revenues

Abstract

Zakat Payer is requesting cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 1441 AH. Zakat Payer objects to the Defendant's action of conducting an estimated assessment, explaining that Zakat declaration included amounts that were not due because expenses such as rent, employee salaries, employee residence renewal, along with health insurance and electricity bills were not taken into account. The Department has established that the Defendant applied the equation to the sales declared in the VAT returns submitted by Zakat Payer. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summarized as follows: The Plaintiff (...), (ID No. ...), has filed an objection to ZATCA's estimated Zakat assessment for 1441 AH. The Plaintiff contests the Defendant's action of conducting an estimated assessment, explaining that Zakat declaration included amounts that were not due because expenses such as rent, employee salaries, employee residence renewal, along with health insurance and electricity bills were not taken into account.

Upon reviewing the statement of claim, the Defendant stated that its Decision is in accordance with Articles (3) and (4) of Rules of Calculating Zakat for Estimate Taxpayers, issued by the Minister of Finance in Decision No. (852) dated 28/02/1441 AH. Zakat base was calculated based on VAT sales.

On Monday, 28/03/2022 AD, the Department held a remote session to hear the Case However, neither the Plaintiff nor its Representative was present, despite nor duly notified of the session date. Representative of the Defendant, (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...)



Dated ../ ../ ... AH. Having reviewed the Case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

As for the formal aspect, the Plaintiff moving this case to cancel ZATCA's Decision regarding the estimated Zakat assessment for 1441, and since this dispute is considered one of the tax disputes that fall within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH and given that the Case was filed with valid Grounds, by an eligible party, and within the legally prescribed period, the case is to be accepted in form.

On merits: Upon careful examination of the documents included in the Case file and the requests, defenses, and arguments raised by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1441 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Moreover, Article (3) of the Rules of Calculating Zakat for Estimate Taxpayers, issued by Ministry of Finance Decision No. (852) dated 28/02/1441 AH, states: "The Zakat base of Zakat Payer subject to these rules shall be evaluated by identifying capital that is appropriate to the size of Zakat Payer's activity, according to the following equation: $[(\text{Sales}/8) + (\text{Sales} \times 15\%)]$ and not less than the capital stated in the commercial register or the licenses required for the activity or any other documents through which the Authority can determine the capital". Based on the foregoing, and upon reviewing the documents and facts of the Case, and since the Plaintiff falls into the category of taxpayers subject to Rules of Calculating Zakat for Estimate Taxpayers, the Defendant has the right to collect information and calculate the Plaintiff's Zakat using the estimated method in accordance with those rules that stipulate estimating the profits for the Plaintiff's activity at a rate of 15% of the sales declared in the VAT returns, and estimating the capital by dividing those sales by 8. Upon reviewing the disputed estimated assessment, it is clear that the Defendant has applied the above equation to the sales declared in the VAT returns submitted by the Plaintiff, which indicates the correctness of ZATCA's procedure. As for the Plaintiff's request to consider expenses when conducting the estimated assessment, calculating the Plaintiff's profit at a rate of 15% means that its estimated expenses constitute 85% of its revenue. Based on the foregoing, the Department decided to reject the Plaintiff's objection to estimated Zakat assessment for 1441 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Reject the objection filed by the Plaintiff (.....), (ID No.), regarding the estimated Zakat assessment for 441AH.

This Decision was issued in the presence of both parties in accordance with the provisions of Article 56 of the Law of Civil Procedures. The Department has set a thirty-day period for receiving a copy of the Decision via the website of the General Secretariat of the Zakat,



Tax and Customs Committees. This Decision is considered final and enforceable as per Article 42 of the Tax Dispute and Violation Committee Procedures

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



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-694
Case No. Z-42530-2021

Key words:

Zakat - Estimated - Revenue Estimation - Sales Declared in VAT Returns - Capital Estimation - Revenues

Abstract

Zakat Payer is requesting cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 1441 AH. Zakat Payer objects to the Defendant's action of conducting an estimated assessment, explaining that the amount estimated by ZATCA is excessively high compared to its income and expenses. Therefore, Zakat Payer demands that zakat due be calculated based on its actual sales and purchases. The Department has established that the Defendant applied the equation to the sales declared in the VAT returns submitted by Zakat Payer. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case can be summed up as follows: the Plaintiff (...), (ID No. ...) has filed an objection to ZATCA's estimated Zakat assessment for 1441 AH. The Plaintiff contests ZATCA's action of conducting an estimated assessment, explaining that the amount estimated by ZATCA is excessively high compared to its income and expenses. Therefore, the Plaintiff demands that zakat due be calculated based on its actual sales and purchases. Upon reviewing the statement of claim, the Defendant stated that its Decision is in accordance with Articles (3) and (4) of Rules of Calculating Zakat for Estimate Taxpayers, issued by Minister of Finance's Decision No. (852) dated 28/02/1441 AH. Accordingly, Zakat base was calculated based on VAT sales.

On Monday, 28/03/2022 AD, the Department held a remote session to hear the Case. However, neither the Plaintiff nor its Representative was present, despite nor duly notified of the session date. Representative of the Defendant, (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated/../. AH. Having reviewed the Case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures,



the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

As for the formal aspect, the Plaintiff moving this case to cancel ZATCA's Decision regarding the estimated Zakat assessment for 1441, and since this dispute is considered one of the tax disputes that fall within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH and given that the Case was filed with valid Grounds, by an eligible party, and within the legally prescribed period, the case is to be accepted in form.

On merits, Upon careful examination of the documents contained in the Case file and the requests, defenses, and arguments presented by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1441 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Moreover, Article (3) of the Rules of Calculating Zakat for Estimate Taxpayers, issued by Ministry of Finance Decision No. (852) dated 28/02/1441 AH, states that: "The Zakat base of Zakat Payer subject to these rules shall be evaluated by identifying capital that is appropriate to the size of Zakat Payer's activity, according to the following equation: $[(\text{Sales}/8) + (\text{Sales} \times 15\%)]$ and not less than the capital stated in the commercial register or the licenses required for the activity or any other documents through which the Authority can determine the capital". Based on the foregoing, and upon reviewing the documents and facts of the Case, and since the Plaintiff falls into the category of taxpayers subject to Rules of Calculating Zakat for Estimate Taxpayers, the Defendant has the right to collect information and calculate the Plaintiff's Zakat using the estimated method in accordance with those rules that stipulate estimating the profits for the Plaintiff's activity at a rate of 15% of the sales declared in the VAT returns, and estimating the capital by dividing those sales by 8. Upon reviewing the disputed estimated assessment, it is clear that the Defendant has applied the above equation to the sales declared in the VAT returns submitted by the Plaintiff, which indicates the correctness of ZATCA's procedure. As for the Plaintiff's request to consider expenses when conducting the estimated assessment, calculating the Plaintiff's profit at a rate of 15% means that its estimated expenses constitute 85% of its revenue. Based on the foregoing, the Department decided to reject the Plaintiff's objection to estimated Zakat assessment for 1441 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Reject the objection filed by the Plaintiff (.....), (ID No.), regarding the estimated Zakat assessment for 441AH.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs



**Committees. This Decision shall be deemed final and enforceable as stipulated by 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.**



Committee for Determination of Tax Violations and Disputes

First Department for Determination of Income Tax Violations and Disputes In governorate Jeddah

Decision No. IZJ-2022-729
Case No. Z-80746-2021

Key words:

Zakat - Estimated - Value of Purchases when Calculating Zakat Base Using Estimated Method - Zakat Declaration - VAT Sales

Abstract

Zakat Payer is requesting cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 1441 AH. Zakat Payer contests the Defendant's action of conducting an estimated assessment, arguing that the estimation of sales based on the higher of (number of employees *6,000 – purchases *115%) is contrary to the law governing estimated calculations. Zakat Payer clarifies that it has declared sales of (SAR 80,000) in its VAT returns and, according to Cause (Four) of the Rules of Calculating Zakat for Estimate Taxpayers, Zakat Payer requests to be assessed based on these declared sales and not by adding an average of employees and purchases when calculating zakat base. The Department has established that ZATCA has based the assessment on VAT sales but upon reviewing the return, it has been found that ZATCA has assessed Zakat Payer based on 115% of the value of purchases, amounting to (SAR 2,934,053.65). Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summarized as follows: The Plaintiff (...), ID No. (...), has filed an objection to ZATCA's estimated Zakat assessment for 1441 AH. The Plaintiff contests the Defendant's action of conducting an estimated assessment, arguing that the estimation of sales based on the higher of (number of employees *6,000 - purchases *115%) is contrary to the law governing estimated calculations. The Plaintiff clarifies that it has declared sales of (SAR 80,000) in its VAT returns and, according to Cause (Four) of the Rules of Calculating Zakat for Estimate Taxpayers, the Plaintiff requests to be assessed based on these declared sales and not by adding an average of employees and purchases when calculating zakat base.

Upon reviewing the statement of claim, the Defendant stated that its Decision is in accordance with Articles (3) and (4) of Rules of Calculating Zakat for Estimate Taxpayers,



issued by the Minister of Finance in Decision No. (852) dated 28/02/1441 AH. Zakat base was calculated based on VAT sales.

On Thursday, corresponding to 07/04/2022 AD, the Department held a remote session to hear the Case. However, neither the Plaintiff nor its Representative was present, despite being duly notified of the session date. Representative of the Defendant, (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .../.../... AH. Having reviewed the case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds: ◇

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

As for the formal aspect, the Plaintiff moving this case to cancel ZATCA's Decision regarding the estimated Zakat assessment for 1441, and since this dispute is considered one of the tax disputes that fall within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH and given that the Case was filed with valid Grounds, by an eligible party, and within the legally prescribed period, the case is to be accepted in form.

On merits, Upon careful examination of the documents contained in the Case file and the requests, defenses, and arguments presented by both parties, the Department has found that the dispute lies in the Defendant's issuance of an estimated Zakat assessment for 1441 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment and requests to amend the Defendant's procedure, while the Defendant has maintained the validity of its Decision. Moreover, Article (3) of the Rules of Calculating Zakat for Estimate Taxpayers, issued by Ministry of Finance Decision No. (852) dated 28/02/1441 AH, states that "Zakat base for a Zakat Payer subject to these rules is estimated by determining a capital that is commensurate with the size of Zakat Payer's activity according to the following equation: $[(\text{Sales}/8) + (\text{Sales} \times 15\%)]$ and not less than the capital stated in the commercial register or the licenses required for the activity or any other documents through which the authority can determine the capital". Based on the foregoing, and upon reviewing the data submitted by both parties, the Department has found that the dispute lies in the Plaintiff's objection to being assessed based on the value of purchases when calculating zakat base using the estimated method. According to Article (4) of the Rules of Calculating Zakat for Estimate Taxpayers, which states: "If the Zakat payer does not have sales registered in VAT return, the sales shall be evaluated as per the following criteria; whichever is greater:" As such, the Plaintiff must be assessed based on its sales. However, if the Plaintiff does not have sales registered in VAT return, then its sales are estimated using other criteria. Zakat return submitted by the Plaintiff indicates that it has VAT sales amounting to (SAR 80,000). ZATCA clarified in its Reply that the assessment was based on VAT sales, but upon reviewing the return, it was found that ZATCA had assessed the Plaintiff based on 115% of the value of purchases, amounting to (SAR 2,934,053.65). Based on the foregoing, the Department decided to reject the Plaintiff's objection to estimated Zakat assessment for 1441 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:



Decision:

Reject the objection filed by the Plaintiff (.....), (ID No.), regarding the estimated Zakat assessment for 1441AH.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Income Tax Violations and Disputes

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

Decision No. IZJ-2022-749

Case No. I-54649-2021

Key words:

Zakat - Accounts - Advance Payments from Clients - Zakat Base - Revenues - Financial Statements

Abstract

Zakat Payer is requesting cancellation of ZATCA's Decision regarding Zakat assessment for 2019. Zakat Payer contests the inclusion of item (advance payments from clients) in Zakat base amounting to (SAR 3,265,681). However, since the Implementing Regulations for Zakat Collection clarified that what is added from advance payments is the beginning-of-the-period balance or the end-of-the-period balance, whichever is less, it is clear that the Defendant's action of adding the end-of-the-period balance of (SAR 3,265,681) is valid. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- Article (4.2) of [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summed up as follows: Mr....., National ID No. (...) in his capacity as Representative of the Plaintiff (.....Co.), CR No. (...), pursuant to its commercial register, has filed an objection to ZATCA's Zakat assessment for 2019. The Plaintiff's objection is specifically directed at item (advance payments from clients). The Plaintiff contests the inclusion of this item in zakat base amounting to (SAR 3,265,681). The Plaintiff argues that this balance is not carried forward and is accumulated throughout the year from January to December. Accordingly, the Company calculates the revenues for the fiscal year only and the excess amount is collected in a prepaid account. Subsequently, the transferred amount from the prepaid account is directly closed in the revenues of the year. The Plaintiff is requesting a calculation of the annual turnover on the advance payments.

Upon reviewing the statement of claim, the Defendant replied that ZATCA added an item for advance payments from clients by adding the end-of-period balance as per the balance sheet in the financial statements, following the method of the lower of the beginning or end-of-period balance, as per Article (4.2) of the Implementing Regulations for Zakat



Collection. After studying the objection and reviewing the financial statements, it was found that the amount added to the base is correct and is the end-of-period balance of (SAR 3,265,681), which is the lower balance as shown in the balance sheet in the financial statements. The balance sheet also showed that other creditor balances were (SAR 3,265,681) at the beginning of the period and (SAR 3,464,439) at the end of the period.

On Sunday, corresponding to 13/03/2022 AD, the Department held its session remotely to consider the Case. At that session, Mr. (...) ID No. (...) was present In his capacity as the Company's Representative pursuant to the commercial register attached to the Case file. Also, attended the Defendant's Representative (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .. / .. / .. AH. During the session, the Plaintiff's Representative was prepared and asked to wait until he could be admitted to the Department. However, he did not comply and left the session without the Department's permission. Having reviewed the case file and since the case was ripe for adjudication as per Article 20 of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds:

Having taken cognizance of Zakat Law promulgated by Royal Decree No. (17/28/577) of 14/03/1376 AH, and its Implementing Regulations issued by the Minister of Finance's Decision No. (2082) dated: 01/06/1438 AH, as amended, and 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), dated 11/06/1425 AH, as amended, and the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040), dated 21/04/1441 AH. and the relevant Laws and regulations.

In form, the Plaintiff seeks by this Case to cancel ZATCA's Decision regarding Zakat assessment for 2019, and given that this dispute is a tax dispute, it falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes pursuant to Royal Order No. (26040), dated 21/04/1441 AH. Since the Case was filed by a party with legal capacity and within the prescribed statutory period, it is incumbent upon this Department to accept the Case in form.

On merits: Upon careful examination of the documents included in the Case file, and after considering the requests, defenses, and arguments raised by both parties, the Department found that the dispute lies in the Defendant's issuance of zakat assessment for 2019. The Plaintiff's objection is specifically directed at item (advance payments from clients). The Plaintiff contests the inclusion of this item in zakat base amounting to (SAR 3,265,681). The Plaintiff argues that this balance is not carried forward and is accumulated throughout the year from January to December. Based on this, the Company calculates the revenues for the fiscal year only and the excess amount is collected in a prepaid account. Subsequently, the transferred amount from the prepaid account is directly closed in the revenues of the year. The Plaintiff is requesting a calculation of the annual turnover on the advance payments. However, the Defendant has argued for the inclusion of the advance payments from clients item by adding the end-of-period balance as per the balance sheet in the financial statements, following the method of the lower of the beginning or end-of-period balance. Additionally, Article (4.2) of the Implementing Regulations for Zakat Collection, issued by Ministerial Decision issued by Ministerial Decision No. (2216), dated 07/07/1440 AH states: "The Zakat base for a taxpayer who keeps commercial records consists of all their assets subject to Zakat collection, including the following: 2. Revenues and advance payments to the taxpayer at the beginning or end of the Zakat year, whichever is less". Based on the foregoing, and upon reviewing the data submitted by both parties,



and given that the Implementing Regulations for Zakat Collection, issued by Ministerial Decree No. (2216), dated 7/7/1440 AH, clarified that what is added from advance payments is the beginning-of-the-period balance or the end-of-the-period balance, whichever is less, it is clear that the Defendant's action of adding the end-of-the-period balance of (SAR 3,265,681) is correct. Accordingly, the Department rejects the Plaintiff's objection to the advance payments item.

Decision:

Dismiss objection filed by Plaintiff (... Company), CR No. (...), regarding item (advance payments).

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-757
Case No. Z-24724-2020

Key words:

Zakat - Accounts - Undeclared Contract Profits - Financial Statements - Total Value - Revenues

Abstract

Zakat Payer is requesting cancellation of ZATCA's Decision regarding Zakat assessment for 2018. Zakat Payer contests the inclusion of item (undeclared contract profits), amounting to (SAR 1,198,875), stating that there were no profits from any undeclared contracts in its accounts. The Department, upon examination, found that only the total value was established and that Zakat Payer had submitted supporting documents to substantiate its claim. Therefore, the Department dismisses Zakat Payer's objection.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- Paragraph (5) of Clause (Two) of Article (4) and Article (20.3) of [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summed up as follows: Mr....., National ID No. (...) in his capacity as Representative of the Plaintiff (.....Co.), CR No. (...), pursuant to its AOA, has filed an objection to ZATCA's Zakat assessment for 2018. The Plaintiff's objection is specifically directed at item (undeclared contract profits) amounting to (SAR 1,198,875). The Plaintiff asserts that there are no profits from any undeclared contracts in its accounts. The Plaintiff further states that it requested the Defendant to provide the contracts that the Defendant had indicated were undeclared, but ZATCA did not respond to its request. The Plaintiff believes that the Defendant is referring to a contract with (...) Corporation, where the maximum value of the contract (if the entire service is performed) is (SAR 7,992,500) over the contract period from 01/06/2016 to 30/05/2019. The Plaintiff affirms that Saline Water Conversion Corporation (SWCC) is the entity responsible for requesting the service and determining the timing and quantity of the shipment. The Plaintiff cannot transfer any quantity or claim any revenue for this contract until it receive an official request from SWCC. Consequently, no services have been provided, and no invoices related to this contract have been issued during the fiscal year ending on 31/03/2019, nor have any invoices been issued for this contract since 16/10/2017 until the



present date. This is because the remaining quantity of fuel under the contract has not been transferred due to the company not receiving any transfer requests for the remaining quantity in the contract from the client. It is important to note that the contract gives (...) Corporation the right not to request the service for any quantity, and the revenue realized from the contract in previous years has already been declared.

Upon reviewing the statement of claim, the Defendant replied that it added profits from contracts amounting to (SAR 1,198,875), which the Plaintiff had failed to declare in its financial statements. Upon reviewing the contract, it was found that it was concluded in 2018, the same year of the assessment. The Plaintiff failed to disclose it, as it had a contract with a total value of (SAR 7,992,500) and had earned a profit of 15%. ZATCA based its action on Article (20.3) of the Implementing Regulations for Zakat Collection.

On Monday, 07/03/2022 AD, the Department held its session remotely to consider the Case. At that session, the Plaintiff's Attorney (...), holder of ID No. (...) was present Pursuant to POA No. (...), In addition, the Defendant's Representative (...), ID No. (...) was present, appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .././.. AH. Having asked parties to the Case about what they would like to add, they were satisfied with their earlier submissions. Accordingly, the Department decided to adjourn the session for deliberation before adjudication.

Grounds:

Having taken cognizance of Zakat Law promulgated by Royal Decree No. (17/28/577) of 14/03/1376 AH, and its Implementing Regulations issued by the Minister of Finance's Decision No. (2082) dated: 01/06/1438 AH, as amended, and 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), dated 11/06/1425 AH, as amended, and the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040), dated 21/04/1441 AH. and the relevant Laws and regulations.

In form, the Plaintiff seeks by this Case to cancel ZATCA's Decision regarding Zakat assessment for 2018, and given that this dispute is a tax dispute, it falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes pursuant to Royal Order No. (26040), dated 21/04/1441 AH. Since the Case was filed by a party with legal capacity and within the prescribed statutory period, it is incumbent upon this Department to accept the Case in form.

On merits: Upon careful examination of the documents included in the Case file and the requests, defenses, and arguments raised by the parties, the Department found that the dispute lies in the Defendant's issuance of zakat assessment for 2018. The Plaintiff's objection is specifically directed at item (undeclared contract profits), amounting to (SAR 1,198,875). The Plaintiff asserts that there are no profits from any undeclared contracts in its accounts. Meanwhile, the Defendant argued that it added profits from contracts amounting to (SAR 1,198,875), which the Plaintiff had failed to declare in its financial statements, and upon reviewing the contract, it was found that it was concluded in 2018, the same year of the assessment. Paragraph (5) of Clause (Second) of Article (4) of the Implementing Regulations for Zakat Collection, issued by Ministerial Decision No. (2082), dated 01/06/1438 AH states: "Second: The following shall be deducted from Zakat base: 5. Owners'/partners' current account debit balance subject to Zakat, up to a maximum of their share in the carried forward profits. Additionally, Article (20.3) of the same Regulations states: "The zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the zakat payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts



as well as the data available to it". Based on the foregoing, and upon reviewing the Case file and its contents, including the defenses and documents, it is clear that the Defendant has failed to provide a clarification regarding the disputed contract, except for the total value, which matches the value indicated by the Plaintiff regarding the contract concluded with (...) Corporation. Upon reviewing the submitted documents, it is clear that the contract was concluded on 27/11/2016, with a term of 3 years starting from 01/06/2016, which contradicts what the Defendant stated regarding its review of the contract, indicating that it was concluded in 2018. Since the Plaintiff has submitted supporting documentary evidence, as stated in the letter from (...) Corporation which indicated that no invoice was issued after 16/10/2017, stating that: "According to information provided by competent personnel from the General Supply Directorate, the contract was not completed due to the plant being out of service", In addition to the accredited chartered accountant's certificate, which included a declaration of the invoices issued within the Plaintiff's revenue in the audited financial statements for the two fiscal years ending on 31/03/2017 and 31/03/2018, and given that the Defendant has not provided a sufficient explanation for its actions, the Department shall accept the Plaintiff's objection to item (contract profits) for the disputed year.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Accept the objection filed by the Plaintiff (...) Company, CR No. (...), regarding item (contract profits) for the disputed year.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Key words:

Zakat - Accounts - Difference of Profits Carried Forward - Capital

Abstract

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding zakat assessment for 2018. Zakat Payer's objection is limited to two items. Regarding the first item: Difference of Profits Carried Forward: Zakat Payer is objecting to adding item (difference of profits carried forward for 2018), stating that profits were used to offset losses in the contracting business and to repay debts. As for Item Second: Capital, Zakat Payer is objecting to adding item (capital), stating that the amount included in Zakat declaration, which is (SAR 50,000), is the same as that in the balance sheet, and it is not adjusted. Regarding item (difference of profits carried forward), the Department has established that Zakat Payer has not attached the detailed transactions during the year for the disputed carried forward profit account. As for item (capital), Zakat Payer has not submitted supporting documents to prove that a full lunar year period has not elapsed on the increase in capital. As such, the Department, hereby, ruled to dismiss Zakat Payer's objection regarding item (difference of profits carried forward) and item (capital) for 2018.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- [Paragraph \(8\) of Clause \(First\), Clause \(First/1\) of Article \(4\), and Article \(20.3\) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summed up as follows: Mr....., National ID No. (...) in his capacity as Owner of (...) Enterprise, For Contracting, C.R. No. (...) Pursuant to its AOA, the Plaintiff filed an objection to ZATCA's zakat assessment for 2018. The Plaintiff's objection is limited to two items. Regarding the first item (Difference of Profits Carried Forward), Zakat Payer is objecting to adding item (difference of profits carried forward for 2018), stating that profits were used to offset losses in the contracting business and to repay debts. As for Item Second: Capital, the Plaintiff is objecting to adding item (capital), stating that the amount included in Zakat declaration, which is (SAR 50,000), is the same as that in the balance sheet, and it is not adjusted.



Having presented the statement of claim to Defendant, it responded as follows: with regard to the first item: Difference of Profits Carried Forward, the Defendant had assessed Zakat Payer's zakat by calculating the balance of carried forward profits at the beginning of the period after deducting settlements, as Article (4.8) of the Implementing Regulations for Zakat Collection issued in 1438 AH provides that: "First: The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 8. The balance of profits carried forward from previous years at the end of the year". Therefore, ZATCA rejected the Plaintiff's objection, and maintained correctness and validity of its procedure. Regarding Second Item: Capital, the Defendant stated that she had added the amount of capital as shown in the balance sheet during the calculation of zakat base, as it appeared to ZATCA that the Plaintiff had stated in its declaration a capital value of (SAR 25,000), and upon referring to the audited financial statements dated 31/12/2018, it appeared that the opening balance was (SAR 50,000), and there was no increase or decrease change in capital during the year until 31/12/2018, as the Plaintiff confirmed and acknowledged in its objection memorandum to ZATCA that there was no adjustment to the capital. In conducting its procedure, ZATCA relied on Article (4.1) of the Implementing Regulations for Zakat Collection, which stipulates: "First: The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 1. The capital that has completed one year as well as any increase therein, even if such increase do not complete a year, as long as it is attributed to an equity element or aimed at financing an acquisition asset deductible from zakat base". As such, ZATCA rejected the Plaintiff's objection with respect to this item, and maintained correctness and validity of its procedure.

On Sunday, corresponding to 20/03/2022, the Department held a remote session to hear the Case. However, neither the Plaintiff nor its Representative was present, despite being duly notified of the session date. Representative of the Defendant, (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .../.../... AH. Having reviewed the Case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds:

Having taken cognizance of Zakat Law promulgated by Royal Decree No. (577/28/17) of 14/03/1376 AH, and its Implementing Regulations issued by the Minister of Finance's Decision No. (2082) dated: 01/06/1438 AH, as amended, and 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), dated 11/06/1425 AH, as amended, and the Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040), dated 21/04/1441 AH, as well as related laws and regulations;

In form: the Plaintiff seeks by this Case to cancel ZATCA's Decision regarding Zakat assessment for 2018, and given that this dispute is a tax dispute, it falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes pursuant to Royal Order No. (26040), dated 21/04/1441 AH. Since the Case was filed by a party with legal capacity and within the prescribed statutory period, it is incumbent upon this Department to accept the Case in form.

On Merits: Upon reviewing the documents included in the Case file, as well as the requests, defenses, and pleas raised by the parties, the Department found that the dispute lies in the Defendant's issuance of Zakat assessment for 2018. The Plaintiff's objection is limited to two specific items.



Regarding First Item: Difference of Profits Carried Forward for 2018, the Plaintiff is objecting to adding item (difference of profits carried forward), stating that profits were used to offset losses in the contracting business and to repay debts. Meanwhile, the Defendant argued that it had assessed Zakat Payer's zakat by calculating the balance of carried forward profits at the beginning of the period after deducting settlements. Paragraph (8) of Clause (First) of Article (4) of the Implementing Regulations for Zakat Collection, issued by Ministerial Decision No. (2082), dated 01/06/1438 AH states: "The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 8. Balance of profits carried forward from previous years at the year-end." In accordance with Article (20.3) of the same Regulations, which states that: "Zakat Payer bears the burden of proving the validity of items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that Zakat Payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it." Based on the above, given the fact that the dispute related to this item is a documentary dispute, and based on the Case file and all arguments and documents contained therein, it turned out that Plaintiff did not attach the detailed account activity illustrating the profits carried forward under dispute, as it failed to provide a statement of the retained earning account components or a statement of objection including clear reasons, but rather submitted some documents that did not support its perspective. Therefore, the Department decided to reject Plaintiff objection regarding Item (Difference of Profits Carried Forward).

As for Item Second: (2018 Capital), Plaintiff raised an objection to adding the Capital Item and stated that the same capital amount of (SAR 50000) was included in both the declaration and the balance sheet, and no amendments were made thereto. While Defendant argued that it had added the capital amount while calculating zakat base as recognized in the balance sheet. ZATCA found that the capital amount recognized by Plaintiff in its declaration was estimated at (SAR 25.000), while the opening balance was estimated at (SAR 50.000) based on the financial statements audited on 31/12/2018 AD, noting that no amendments were made to the capital amount throughout the year, whether by increase or decrease, until 31/12/2018 AD, as Plaintiff confirmed and acknowledged in its statement of objection presented to ZATCA that no amendments were made to the capital amount. Article (4.I.1) of Implementing Regulation for Zakat Collection issued by Ministerial Decision No. (2082), dated 01/06/1438 AH states: "The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 1. The capital that completed one year as well as any increase therein, even if such increase do not complete a year, as long as it is attributed to an equity element or aimed at financing an acquisition asset deductible from zakat base." and Article (20.3) of the same Regulations provides that: "Zakat Payer bears the burden of proving the validity of items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the Zakat Payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it." Based on the above and in accordance with statutory provisions, it is established that any increase in capital shall be added to zakat base in case of completing one year or if it is attributed to an equity item or intended for financing any assets deductible from zakat base. It was evident, based on the submitted documents attached to Case file, that Plaintiff did not submit the supporting documents proving non-expiration of one year on the capital increase and failed also to submit a statement of objection including clear reasons, but rather submitted some documents that did not support its perspective. Therefore, the Department decided to uphold ZATCA action, which required adding such capital increase to zakat base. Accordingly, the Department decided to reject Plaintiff objection concerning Item (2018 Capital).



For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

First: Reject Plaintiff objection to Item (Difference of Profits Carried Forward for the Year 2018 AD).

Second: Dismiss Plaintiff objection to Item (2018 Capital).

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-804
Case No. Z-36187-2021

Key words:

Zakat - Estimated - Capital Shown in Commercial Register - Deletion of Commercial Register

Abstract

Zakat Payer constituted this Case to request cancellation of ZATCA Decision with regard to the estimate zakat assessment for the year 1440 AH. Zakat Payer challenged Defendant action represented in making an estimate assessment based on the fact that Zakat Payer ceased to practice the business activity since he joined the government job, and he had no workers registered in its commercial register. Therefore, Zakat Payer requested the Department to cancel Defendant Decision. The Department has established that Zakat Payer is assessed based on the capital shown in the commercial register, and Zakat Payer has not provided any evidence of the cancellation of the commercial register. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), (holder of National ID No (...)) raised an objection to the estimate zakat assessment for the year 1440 AH issued by ZATCA. Plaintiff challenged Defendant action represented in making estimate assessment based on the fact that he ceased to practice the business activity since he joined the government job, and he had no workers registered in its commercial register. Therefore, Plaintiff requested the Department to cancel Defendant Decision.

Having presented the statement of claim to Defendant, it responded that its Decision was taken in accordance with Articles (3) & (4) of Rules of Calculating Zakat for Estimate Taxpayers issued by Minister of Finance Resolution No. (852) dated 28/02/1441 AH, as zakat base was calculated based on the capital registered in the commercial register.

On Tuesday, 15/03/2022 AD, the Department held its session remotely to consider the Case. At that session, the Plaintiff (...) was present, ID No. (...), In addition, the Defendant's Representative (...), holder of National ID No. (...), appeared pursuant to



POA No. (.), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .././.. AH. Having asked parties to the Case about what they would like to add, they were satisfied with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation before adjudication.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, as amended, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1440, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment for the year 1440 AH issued by Defendant. Plaintiff objected to Defendant action represented in performing an estimate assessment and requested amendment thereof. While Defendant argued that its action is valid in accordance with Paragraph (Third) of Rules of Calculating Zakat for Estimate Taxpayers issued by Minister of Finance Resolution No. (852) dated 28/02/1441 AH, which provides that: "The Zakat base of Zakat Payer subject to these rules shall be evaluated by identifying capital that is appropriate to the size of Zakat Payer's activity, according to the following equation: $(Sales/8) + (Sales \times 15\%)$, and not less than capital set forth in the commercial register, required licenses, or other documents enabling the Authority from quantifying the capital." Based on the above, having reviewed the data provided by both litigants side by side with the estimate assessment issued by ZATCA, it turned out that Plaintiff zakat assessment was made based on the capital registered in the commercial register. Since Plaintiff failed to provide any evidence of cancellation of such commercial register, the Department decided to dismiss Plaintiff objection to the estimate zakat assessment. Based on the foregoing, the Department decided to reject the Plaintiff's objection to estimated Zakat assessment for 1440 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat assessment for 1440 AH.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-846
Case No. Z-67542-2021

Key words:

Zakat - Estimate - Zakat Declarations - Capital Registered in Commercial Register- Expiry of Commercial Register

Abstract

Zakat Payer filed this case to request cancellation of ZATCA Decision with regard to the estimate zakat assessment for the year 1435 AH. Zakat Payer raised an objection to the estimate zakat assessment for the year 1435 AH issued by ZATCA, claiming that it did not engage in the business activity, cancelled the factory industrial license, and that the factory did not start production or perform any business activity. The Department was satisfied that Zakat Payer provided the supporting documents proving that it did not practice the business activity and expiration of the commercial register. Therefore, the Department dismisses Zakat Payer's objection.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- Articles (1), (2), (10), and (13) of [Implementing Regulations of Zakat Collection Law issued by Minister of Finance Resolution No. \(2216\) dated 07/07/1440 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), National ID No. (...), in his capacity as owner of (...) Institution, C. R. No. (...) pursuant to commercial register, filed an objection to the estimate zakat assessment for the year 1435 AH issued by ZATCA, claiming that it did not engage in the business activity and cancelled the factory industrial license, and that the factory did not start production or perform any business activity.

Having presented the statement of claim to Defendant, it entered a plea to dismiss the case due to failure to pay the due amounts in accordance with Article (25) Implementing Regulation for Zakat Collection issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH.

On Saturday, 09/04/2022 AD, the Department held an e-hearing session to consider the Case. The session was attended by Plaintiff (...), holder of National ID No. (...), appeared pursuant to commercial register, and Defendant Representative (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .. / .. / .. AH. The Department found that Plaintiff filed its objection during the legally prescribed period and did not pay the due financial consideration to



Defendant. As a result, the Department decided to reject the formal defense submitted by Defendant and proceed with Case consideration on merits. 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 before adjudication.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, as amended, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1435, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment for the year 1435 AH issued by Defendant. Plaintiff objected to Defendant action represented in making an estimate assessment and requested amendment thereof. While Defendant argued that its action is valid. Article (2) of Implementing Regulation for Zakat Collection stipulates that: "Every person who practices any of the activities mentioned in Article (1) shall be subject to zakat collection", and Article (10) of Implementing Regulation for Zakat Collection, issued by Minister of Finance Resolution No. (2216) dated 07/07/1440 AH, with relation to zakat calculation based on the estimated method, stipulates that: "ZATCA shall hold every Zakat Payer, having no accounting books and records reflecting the reality of its activity and not obliged to issue financial statements, according to the relevant laws, regulations and rules in force, accountable for zakat based on the estimate method, taking into account the following: 3. If ZATCA has information that contradict with information provided by Zakat Payer, then ZATCA shall have the right to depend on its own information. 4. ZATCA shall have the right to draw upon data provided by Zakat Payer when calculating zakat using the estimate method." Article (3) of Rules of Calculating Zakat for Estimate Taxpayers issued by Minister of Finance Resolution No. (852) dated 28/02/1441 AH, which applies to zakat declarations submitted after 31/12/2019 AD states that: "The Zakat base of Zakat payer subject to these rules shall be evaluated by identifying capital that is appropriate to the size of Zakat Payer's activity, according to the following equation: $(\text{Sales}/8) + (\text{Sales} \times 15\%)$, and not less than capital set forth in the commercial registration, required license, or other documents enabling the Authority from quantifying the capital." Moreover, Article (13.6/a) of the Implementing Regulations for Zakat Collection states: "6. Estimate zakat base consists of the following unless Zakat Payer's declaration shows a larger base: A. Working capital shall be determined by any available means, whether through the commercial register, company contracts and articles of association or any other supporting document. If it turns out that the actual working capital differs from the same, ZATCA shall be entitled to determine it in proportion to the volume of activity and the number of capital cycles according to industry, trade or business



norms. Based on the above, having considered the documents submitted in Case file, it was evident that Plaintiff submitted a copy of the commercial register, which clearly proved that the commercial register expiration date is 21/05/1435 AH, and the industrial license expiration letter. Therefore, Plaintiff requested excluding it from zakat collection, claiming that it did not practice the business activity. Upon reviewing the estimate assessment issued by ZATCA, it became clear that Plaintiff was estimated based on the capital registered in the commercial register only, which was a proof that the business did not achieve any profits and that Plaintiff was not engaged therein. Moreover, Plaintiff had submitted the documents proving that it did not practice such activity and that the commercial register had expired. Accordingly, the Department decided to accept Plaintiff objection to the estimate zakat assessment for the year 1435 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Accept the objection filed by the Plaintiff (.....) (ID No.), regarding the estimated Zakat assessment for 1435 AH.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-870
Case No. Z-24028-2020

Key words:

Zakat - Estimate - Financial Statements - Categories that are Subject to Rules of Calculating Zakat for Estimate Taxpayers- Estimating Profits - Sales Recognized in VAT Returns - Estimating Capital

Abstract

Zakat Payer filed this Case to request cancellation of ZATCA Decision with regard to zakat assessment for the year 1439 AH. Zakat Payer raised an objection to Defendant action represented in making an estimate zakat assessment, claiming that it has attached the balance sheets certified by a chartered accounting office, which were also uploaded to Qawaem platform. Therefore, Zakat Payer requested performing zakat assessment based on the attached financial statements. The Department was satisfied that Zakat Payer belongs to the categories that are subject to Rules of Calculating Zakat for Estimate Taxpayers; and therefore, Defendant shall have the right to collect information and calculate zakat imposed on Zakat Payer using the estimate method. Therefore, the Department decided to reject Zakat Payer objection.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- [Article \(13.6\) and Article \(20.3\) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summarized as follows: Mr. (...), holder of National ID No. (...), in his capacity as Attorney of Plaintiff (...), holder of National ID No. (...), under POA No. (...), raised an objection to the estimate zakat assessment for the year 1439 AH issued by ZATCA, challenging ZATCA action represented in making an estimate zakat assessment and claiming that it has attached balance sheets certified by a chartered accounting office, which were also uploaded to Qawaem platform. Therefore, Plaintiff requested making zakat assessment based on the attached financial statements.

Having presented the statement of claim to Defendant, it responded that its action was performed in accordance with Articles (13) of Implementing Regulation for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH, as zakat base was calculated based on VAT returns. Accordingly, ZATCA has experienced the powers



granted thereto and authorizing it to make an estimate zakat assessment based on the information and data collected by it. In accordance with powers granted to it by law, ZATCA shall have the right to draw upon the information collected by it so as to calculate zakat base that fairly reflects the real Plaintiff activity in light of the circumstances and facts related to the Case and the information available about Plaintiff, whether based on the evidence and documents provided by Zakat Payer or by referring directly and continuously to any information related to Plaintiff and held by any third party, which indicates import size, contracts, labor, loans, and subsidies received by Plaintiff. It is worth noting that ZATCA was willing to provide the esteemed Committee with all data supporting its allegations upon request. Accordingly, Defendant confirmed that its Decision, subject matter of the Case, was taken based on valid legal reasons stipulated in its Grounds, and Plaintiff must prove the invalidity of such Decision.

On Sunday, 10/04/2022 AD, the Department held an e-session to consider the Case. The session was attended by Plaintiff Attorney (.....), holder of National ID No. (...), appeared pursuant to POA No. (...), and Defendant Representative (...), holder of National ID No.(...) appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated ../ ../ AH. 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 reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, as amended, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1439, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment for the year 1439 AH issued by Defendant. Plaintiff raised an objection to Defendant action represented in making an estimate assessment and requested amendment thereof. While Defendant argued that its action is valid. Article (13.6) of Implementing Regulation for Zakat Collection issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH stipulates that: "6. Estimate zakat base consists of the following unless Zakat Payer's declaration shows a larger base: A. Working capital shall be determined by any available means, whether through the commercial register, company contracts and articles of association or any other supporting document. If it turns out that the actual working capital differs from the same, ZATCA shall be entitled to determine it in proportion to the volume of activity and the number of capital cycles according to industry, trade or business norms. B. Net profits realized during year, which are estimated at a minimum of 15% of total revenues....." Additionally, Article (20.3) of the same Regulations, which states that:



"The zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the zakat payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it". Based on the above, the estimate method for making Plaintiff zakat assessment shall be applicable in the cases where Plaintiff chooses to accept zakat assessment on that basis; therefore, there are no Grounds for accepting Plaintiff objection to estimate assessment as long as such assessment was made based on reasonable reasons and justifications taking into account its activity nature and size and the evidence that supports the validity of such assessment to a great extent, without prejudice to instructions and rules regulating that matter and in light of Decisions taken in this regard. It is also worth noting that Plaintiff dispute requesting imposition of zakat based on its financial statements shall not be accepted because Plaintiff has rejected such option in the first place. Also, Plaintiff shall be responsible for requesting zakat calculation based on regular accounts instead of the estimate method before issuance of the estimate assessment, so that Plaintiff could not ignore submitting regular accounts until issuance of an arbitrary assessment, hoping that such assessment will be in its favor, and then submit the regular accounts if the assessment was not in its favor. Having referred to Case file side by side with defenses and documents contained therein, the Department found that Plaintiff failed to submit the financial statements of the year of dispute and failed also to submit any evidence of its request not to adopt the estimate method. Given the fact that Plaintiff belongs to the categories that are subject to Rules of Calculating Zakat for Estimate Taxpayers, Defendant had the right to collect information and calculate zakat using the estimate method based on the abovementioned Rules, which stipulate that profits of Plaintiff activity are estimated at (15%) of the sales declared in the VAT returns and capital estimation. Based on the above, the Department decided to reject Plaintiff objection to the estimated zakat assessment for the year 1439 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Reject the objection filed by Plaintiff (ID No.) regarding the estimated Zakat assessment for 1439 AH.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Key words:

Zakat - Estimate - Estimate Profit Percentage - Sales Difference - Profit Statement Used in Assessment

Abstract

Zakat Payer initiated this Case seeking cancellation of the estimate zakat assessment for the year 2018 AD. Zakat Payer raised an objection to Defendant action represented in making an estimate assessment and claimed that Defendant had calculated the difference in VAT sales, noting that such difference resulted from a mistake in recognizing sales in VAT returns due to recognition of the sales of the whole year instead of recognizing the sales of the single tax period (three months). Zakat Payer argued that such difference only appeared in sales, not in costs of sales, as there are no revenues without costs. Moreover, Zakat Payer explained that colleagues concerned with VAT were contacted and discussed with regard to such differences, and verified its validity. Therefore, Zakat Payer requested cancellation of such difference and confirmation of the validity of zakat declaration based on the balance sheet. The Department found that Defendant had applied a 15% estimate profit to the declared sales difference, which confirmed the validity of Defendant action. Therefore, the Department decided to reject Zakat Payer objection.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Article \(13.5.E\) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summed up as follows: Mr....., (holder of national ID No.) filed an objection to the estimate assessment for the year 2018 AD issued by ZATCA, as it challenged Defendant action represented in making an estimate assessment. Plaintiff claimed that Defendant had calculated the difference in VAT sales, noting that such difference resulted from a mistake in recognizing sales in VAT returns due to recognition of the sales of the whole year instead of recognizing the sales of the single tax period (three months). Plaintiff argued that such difference only appeared in sales, not in costs of sales, as there are no revenues without costs. Moreover, Plaintiff explained that colleagues concerned with VAT were contacted and discussed with regard to such difference, and



verified its validity. Therefore, Plaintiff requested cancellation of such difference and approval of zakat declaration as recognized in the balance sheets.

Having presented the statement of claim to Defendant, it responded that it had made a comparison at the time of assessment and, as a result, VAT sales difference to the net profit not recognized in the income statement. Defendant found that VAT sales were estimated at (SAR 9.739.174), while the sales recorded in the income statement were estimated at (SAR 6.378.393); therefore, there was a difference estimated at (SAR 3.360.781), which was marked up by (15%). Accordingly, ZATCA has experienced the powers granted thereto, authorizing it to make an estimate zakat assessment based on the information and data collected by it. In accordance with powers granted to it by law, ZATCA shall also have the right to draw upon the information collected by it so as to calculate zakat base that fairly reflects the real Plaintiff activity in light of the circumstances and facts related to the Case and the information available about Plaintiff, whether based on the evidence and documents provided by Zakat Payer or by referring directly and continuously to any information related to Plaintiff and held by any third party, which indicates import size, contracts, labor, loans, and subsidies received by Plaintiff. It is worth noting that ZATCA was willing to provide the esteemed Committee with all data supporting its allegations upon request. Accordingly, Defendant confirmed that its Decision, subject matter of the Case, was taken based on valid legal reasons stipulated in its merits, and Plaintiff must prove the invalidity of such Decision.

On Sunday, 10/04/2022 AD, the Department held an e-session to consider the Case. No one appeared to represent Plaintiff despite being duly notified of the session date. For the Defendant, Mr....., holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated ../ ../ AH. Having reviewed Case file and since the Case was ripe for adjudication as per provisions of Article (20) the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering a Decision.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 2018, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment for the year 2018 AD issued by Defendant. Plaintiff raised an objection to Defendant action represented in making an estimate assessment, and requested amendment thereof. While Defendant argued that its action is valid. Article (13.5.E) of Implementing Regulation for Zakat Collection issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH stipulates that: "ZATCA has the right to hold Zakat Payers accountable based on the



estimate method in order to oblige them to comply with legal requirements in the following cases: E. Failure of Zakat Payer to prove the validity of information recorded in its declaration based on supporting documents.” Based on the above, after reviewing information provided by both litigants, it turned out that the dispute happened as a result of Plaintiff objection to the zakat assessment for the year 1440 AH. The dispute was documentary, and Plaintiff failed to provide any evidence supporting its claim that the recorded amount was incorrect and zakat base was calculated based on the same. When referring to the contested assessment, it became clear that Defendant applied a (15%) estimated profit to the declared sales difference, which confirmed the validity of Defendant action with regard to the profit percentage applied to zakat assessment being objected. Accordingly, the Department decided to reject Plaintiff objection to the estimated zakat assessment for the year 2018 AD.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss the objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat assessment for 2018.

This Decision was issued in the presence of both parties . in accordance with the provisions of Article 56 of the Law of Civil Procedures. The Department has set a thirty-day period for receiving a copy of the Decision via the website of the General Secretariat of the Zakat, Tax and Customs Committees. This Decision is considered final and enforceable as per Article 42 of the Tax Dispute and Violation Committee Procedures.

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



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-878

Case No. Z-40172-2021

Key words:

Zakat - Estimate - Percentage applied when calculating zakat base using the estimated method - Categories that are Subject to Rules of Calculating Zakat for Estimate Taxpayers- Estimating Profits - Sales Recognized in VAT Returns - Estimating Capital

Abstract

Zakat Payer filed this Case to request cancellation of the estimate zakat assessment for the year 1441 AH, as it claimed that its sales constituted of fuels with a fluctuating value and fixed profits. Zakat Payer also added that ZATCA applied a 15% profit to sales while making its assessment, and the profits of fuels do not reach such percentage. The Department found that Defendant applied the prescribed equation to the sales declared in the VAT returns provided by Zakat Payer; therefore, the Department confirmed the validity of ZATCA action. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summed up as follows: Mr....., (holder of National ID No ...), filed this Case to request cancellation of the estimate zakat assessment for the year 1441 AH issued by ZATCA, as it claimed that its sales were fuels with a fluctuating value and fixed profits. Zakat Payer also added that ZATCA applied a 15% profit to sales while making its assessment, and the profits of fuels do not reach such percentage.

Having presented the statement of claim to Defendant, it responded that its Decision was taken in accordance with Articles (3) & (4) of Rules of Calculating Zakat for Estimate Taxpayers issued by Minister of Finance Resolution No. (852) dated 28/02/1441 AH, as zakat base was calculated based on VAT sales.

On Sunday, corresponding to 10/04/2022 AD, the Department held an e-session to consider the Case. No one appeared to represent Plaintiff despite being duly notified of the session date. For the Defendant, Mr....., holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .. / .. / .. / AH. Having reviewed Case file and since the Case was ripe for



adjudication as per provisions of Article (20) the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering a Decision.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1441, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment for the year 1441 AH issued by Defendant. Plaintiff raised an objection to Defendant action represented in making an estimate assessment, and requested amendment thereof. While Defendant argued that its action is valid in accordance with Paragraph (Third) of Rules of Calculating Zakat for Estimate Taxpayers issued by Minister of Finance Resolution No. (852) dated 28/02/1441 AH, which provides that: $[(Sales/8) + (Sales \times 15\%)]$ and not less than the capital stated in the commercial register or the licenses required for the activity or any other documents through which the authority can determine the capital” Based on the above, having reviewed data provided by both litigants, it turned out that the dispute happened as a result of Plaintiff objection to the percentage applied when calculating zakat base using the estimate method. Since Plaintiff belongs to categories that are subject to Rules of Calculating Zakat for Estimate Taxpayers, Defendant had the right to collect information and calculate zakat base using the estimate method based on such Rules, which stipulate that profits of Plaintiff activity are estimated at (15%) of the sales declared in the VAT returns and estimating capital by dividing such sales by (8). Having reviewed the zakat assessment under dispute, the Department found that Defendant applied the abovementioned equation to sales declared in the VAT returns submitted by Plaintiff, which confirms the validity of Defendant action. As for Plaintiff claim requesting making the estimate assessment based on expenses, it is worth noting that making an estimate assessment based on the profit percentage of (15%) means that Plaintiff estimate expenses constitute (85%) of its revenues. Accordingly, the Department decided to reject Plaintiff objection to the estimate zakat assessment for the year 1441 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat assessment for 441AH.

This Decision was issued in the presence of both parties . in accordance with the provisions of Article 56 of the Law of Civil Procedures. The Department has set a thirty-



day period for receiving a copy of the Decision via the website of the General Secretariat of the Zakat, Tax and Customs Committees. This Decision is considered final and enforceable as per Article 42 of the Tax Dispute and Violation Committee Procedures. May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-904
Case No. Z-44949-2021

Key words:

Zakat - Estimate - Non-ownership of Commercial Register - Transfer of Commercial Register

Abstract

Zakat Payer filed this case to request cancellation of the estimate zakat assessment for the period (1435-1440 AH). Plaintiff raised an objection to Defendant action represented in making an estimate assessment, claiming that the commercial register was transferred to another owner since 1434 AH and there were no other due payments as the license was also transferred. Plaintiff also added that zakat is imposed thereto based on regular accounts rather than the estimate method, and that he had no idea about the reasons for such assessment. Additionally, Plaintiff claimed that when filing its objection, it received a response declaring that its objection was not considered due to expiration of the legally prescribed period for filing an objection. The Department found that the commercial register was transferred to a new owner, including all related rights and obligations, on 26/05/1434AH. Therefore, the Department dismisses Zakat Payer's objection.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summed up as follows: Mr....., (holder of National ID No ...), filed this Case to request cancellation of the estimate zakat assessment for the period (1435-1440 AH) issued by ZATCA. Plaintiff raised an objection to Defendant action represented in making an estimate assessment, claiming that the commercial register was transferred to another owner since 1434 AH and there were no other due payments as the license was also transferred. Plaintiff also added that zakat is imposed thereto based on regular accounts and that it had never estimated based on the estimate method, and that he had no idea about the reasons for such assessment. Additionally, Plaintiff claimed that when filing its objection, it received a response declaring that its objection was not considered due to expiration of the legally prescribed period for filing an objection.



On Tuesday, 12/04/2022 AD, the Department held its session remotely to consider the Case. At that session, the Plaintiff (...) was present, (holder of National ID No ...), subject to the commercial register attached to Case file, and Defendant Representative (....) holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated ../ .. /../ AH. The Department reviewed the Ministry of Commerce statement with regard to the commercial register, subject matter of this Case, and found that the commercial register was transferred on 26/05/1434 AH to (.....), which indicate that the commercial register, subject matter of this Case, was not owned by Plaintiff during the years of dispute. Therefore, the Department decided to reject the formal defense submitted by Defendant and proceed with case consideration on merits based on the fact that Plaintiff did not practice the business activity during the period of dispute. 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 reviewed the Zakat Law promulgated by Royal Order No. (557/28/17) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form, Plaintiff instituted this case petitioning for cancellation of ZATCA Decision with regard to the estimate zakat assessment for the period (1435-1440 AH). Since this dispute is a tax dispute, it falls within the jurisdiction of Committee for Determination 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 person with a capacity, and within the period prescribed by Law, it is accepted in form.

On merits, having reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment for the period (1435-1440 AH) issued by Defendant. Plaintiff challenged Defendant action represented in making an estimate assessment, and requested amendment thereof. While Defendant argued that its action is valid. Based on the above and after reviewing Case file, the Department found that the commercial register was transferred to the new owner, including all related rights and obligations, on 26/05/1434 AH. As a consequence, the Department decided to accept Plaintiff objection to the estimated zakat assessment for the period (1435-1440 AH).

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Accept the objection filed by the Plaintiff (....) (holder of National ID No ...), to the estimated zakat assessment for the period (1435-1440 AH).

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-905
Case No. Z-42165-2021

Key words:

Zakat - Estimate - VAT Sales - Previous Contracts - Absence of Double Deduction in Zakat Assessment

Abstract

Zakat Payer filed this case to request cancellation of the estimate zakat assessment for the year 1441 AH. Plaintiff raised an objection to Defendant action represented in making an estimate assessment, claiming that zakat was calculated based on VAT sales and that the amounts to which VAT was imposed were non-paid financial settlements related to old governmental contracts concluded before 1437 AH, which were paid recently. Plaintiff also added that zakat imposed on such amounts was paid previously and confirmed that the institution did not conclude any contracts with governmental or private entities after 1436 AH. Therefore, Plaintiff requested exemption from required zakat because it was imposed with relation to outdated contracts. The Department found there was no double deduction in zakat assessment. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summed up as follows: Plaintiff (...), (holder of National ID No ...), filed this Case to request cancellation of the estimate zakat assessment for the year 1441 AH issued by ZATCA. Plaintiff raised an objection to Defendant action represented in making an estimate assessment, claiming that zakat was calculated based on VAT sales and that the amounts to which VAT was imposed were non-paid financial settlements related to old government contracts concluded before 1437 AH, which were paid recently. Plaintiff also added that zakat imposed on such amounts was paid previously and confirmed that the institution did not conclude any contracts with governmental or private entities after 1436 AH. Therefore, Plaintiff requested to be exempted from required zakat because it was imposed with relation to outdated contracts.

Having presented the statement of claim to Defendant, it responded that its Decision was taken in accordance with Articles (3) & (4) of Rules of Calculating Zakat for Estimate



Taxpayers issued by Minister of Finance Resolution No. (852) dated 28/02/1441 AH, as zakat base was calculated based on VAT sales.

On Sunday, 10/04/2022 AD, the Department held an e-session to consider the Case. No one appeared to represent Plaintiff despite being duly notified of the session date. For the Defendant, Mr....., holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .. / .. / .. / AH. Having reviewed Case file and since the Case was ripe for adjudication as per provisions of Article (20) the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering a Decision.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1441, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment for the year 1441 AH issued by Defendant. Plaintiff raised an objection to Defendant action represented in making an estimate assessment, and requested amendment thereof. While Defendant argued that its action is valid. Based on the above and after reviewing zakat assessment for the year of dispute, the Department found that there is no double deduction in zakat assessment and, therefore, decided to reject the Plaintiff objection to the estimate zakat assessment for the year 1441 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat assessment for 1441 AH.

This Decision was issued in the presence of both parties . in accordance with the provisions of Article 56 of the Law of Civil Procedures. The Department has set a thirty-day period for receiving a copy of the Decision via the website of the General Secretariat of the Zakat, Tax and Customs Committees. This Decision is considered final and enforceable as per Article 42 of the Tax Dispute and Violation Committee Procedures.

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



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-912
Case No. Z-24446-2020

Key words:

Zakat - Estimate - Double Deduction of Zakat - Zakat Base - VAT Sales - Overlapping Period

Abstract

Zakat Payer filed this case to request cancellation of the estimate zakat assessment for the year 1441 AH, claiming that there is a double deduction of zakat in zakat assessment and that Defendant added the sales of the third quarter of 2019 to zakat base of the year 1441 AH, which constituted double deduction of zakat because it was previously added to zakat base of the year 1440 AH due to overlap Hijri year with Gregorian year. The Department found that there is an overlap with regard to the third quarter of 2019 AD only. Therefore, the Department decided to amend the Defendant's action.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summed up as follows: Mr....., (holder of National ID No ...), filed an objection to the estimate zakat assessment for the year 1441 AH issued by ZATCA, claiming that there is a double deduction of zakat in such estimate assessment and that Defendant added the sales of the third quarter of 2019 AD to the zakat base of 1441 AH, which constituted a double deduction of zakat as it was previously added to the zakat base of 1440 AH due to the overlap of the Hijri year with the Gregorian year.

Having presented the statement of claim to Defendant, it responded that its Decision was taken in accordance with Articles (3) & (4) of Rules of Calculating Zakat for Estimate Taxpayers issued by Minister of Finance Resolution No. (852) dated 28/02/1441 AH, as zakat base was calculated based on VAT sales. Therefore, ZATCA has experienced the powers granted thereto and authorizing it to make an estimate zakat assessment based on the information and data collected by it. Also, ZATCA shall have the right to draw upon the information collected by it so as to calculate zakat base that fairly reflects the real Plaintiff activity in light of the circumstances and facts related to the Case and the information available about Plaintiff, whether based on the evidence and documents



provided by Plaintiff or by referring directly and continuously to any information related to Plaintiff and held by any third party, which indicates import size, contracts, labor, loans, and subsidies received by Plaintiff. It is worth noting that ZATCA was willing to provide the esteemed Committee with all data supporting its allegations upon request.

On Sunday, corresponding to 10/04/2022 AD, the Department held its session remotely to consider the Case. At that session, the Plaintiff (...) was present, holder of National ID No. (...), appeared pursuant to the commercial registration attached to the Case file. Also, attended the Defendant's Representative (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .. / .. / .. AH. 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 reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1441, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment for the year 1441 AH issued by Defendant. Plaintiff raised an objection to Defendant action represented in making an estimate assessment, and requested amendment thereof. While Defendant argued that its action is valid. Based on the above and after reviewing zakat assessment for the year of dispute, the Department found that there was an overlap with regard to the third quarter of 2019 AD only; therefore, the Department decided to amend the Defendant action related to the estimate zakat assessment for the year 1441 AH by excluding the overlapped period of the third quarter of 2019 AD.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Amend the Defendant action related to the estimate zakat assessment for the year 1441 AH by excluding the overlapped period of the third quarter of 2019 AD.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-920
Case No. Z-50758-2021

Key words:

Zakat - Estimate - The percentage applied when calculating zakat base using the estimate method - Categories that are not obligated to keep regular books and records - Regular Accounts - Arbitrary Assessment

Abstract

Zakat Payer filed this Case requesting cancellation of the estimate zakat assessment for the year 1440 AH and challenging Defendant action represented in making the estimate assessment for the year 1440 AH with the amount of (SAR 18,685.44). Zakat Payer objected to ZATCA assessment made based only on Institution sales without taking into account procurements and other expenses, such as salaries and rents, and making its assessment based on sales, not profits. Moreover, Zakat Payer added that it had paid (25%) of the objected amount and claimed to be assessed based on regular accounts. Therefore, Plaintiff requested amendment of zakat assessment. The Department was satisfied that Zakat Payer belongs to the categories that are not obligated to have regular accounting books and records; and therefore, Defendant shall have the right to collect information and calculate zakat imposed on Zakat Payer using the estimate method. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Paragraph \(6\) and \(6/B\) of Article \(13\) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

Facts of this case are summarized as follows: Plaintiff (...), holder National ID No. (...), in his capacity as owner of (...) Institution, CR No. (...), subject to the commercial register, filed an objection to the estimate zakat assessment for the year 1440 AH issued by ZATCA and challenging its action represented in making the estimate assessment for the year 1440 AH with the amount of (SAR 18,685.44). Plaintiff objected to ZATCA assessment made based on Institution sales only without taking into consideration procurements and other expenses, such as salaries and rents, and making its assessment based on sales, not profits. Moreover, Plaintiff added that it had paid (25%) of the objected



amount and claimed to be assessed based on regular accounts. Therefore, Plaintiff requested amendment of zakat assessment.

Upon presenting the statement of claim to Defendant, it responded that the case is rejected in form due to expiration of the prescribed period for filing an objection and appeal.

On Thursday, corresponding to 14/04/2022 AD, the Department held an e-session to consider the Case. No one appeared to represent Plaintiff despite being duly notified of the session date. For the Defendant (Mr.....), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated ../ Having reviewed Case file and since the Case was ripe for adjudication as per provisions of Article (20) Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering a Decision.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

As for the formal aspect, the Plaintiff moving this case to cancel ZATCA's Decision regarding the estimated Zakat assessment for 1440, and since this dispute is considered one of the tax disputes that fall within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes, pursuant to Royal Order No. (26040) dated 21/04/1441 AH and given that the Case was filed with valid Grounds, by an eligible party, and within the legally prescribed period, the case is to be accepted in form.

On merits, having reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment for the year 1440 AH issued by Defendant. Plaintiff raised an objection to Defendant action represented in making an estimate assessment, and requested amendment thereof. While Defendant argued that its action is valid. Article (13.6) of Implementing Regulation for Zakat Collection issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH stipulates that: "6. Estimate zakat base consists of the following unless Zakat Payer's declaration shows a larger base: A. Working capital shall be determined by any available means, whether through the commercial register, company contracts and articles of association or any other supporting document. If it turns out that the actual working capital differs from the same, ZATCA shall be entitled to determine it in proportion to the volume of activity and the number of capital cycles according to industry, trade or business norms. B. Net profits realized during year, which are estimated at a minimum of 15% of total revenues....." Based on the above, having reviewed data provided by both litigants, it turned out that the dispute happened as a result of Plaintiff objection to the percentage applied when calculating zakat base using the estimate method. Since Plaintiff belonged to categories that are not obligated to have regular accounting books and records, Defendant had the right to collect information and calculate zakat base using the estimate method in accordance with Article (13.6.B) of the Regulations and based on information that reflects the actual and real Plaintiff activity. Consequently, the estimated profit percentage that shall be applied in accordance with Article (13.6.B) is (15%). With regard to Plaintiff request to be assessed based on regular accounts, the estimate method for making Zakat Payer assessment shall be applicable in the cases where Zakat Payer



chooses to accept zakat assessment on that basis; therefore, there are no Grounds for accepting Zakat Payer objection to the estimate assessment as long as such assessment was made based on reasonable reasons and justifications taking into account its activity nature and size and the evidence that supports the validity of such assessment to a great extent, without prejudice to instructions and rules regulating that matter and in light of Decisions taken in this regard. Also, Plaintiff shall be responsible for requesting zakat calculation based on regular accounts instead of the estimate method before issuance of the estimate assessment, so that Plaintiff could not ignore submitting regular accounts until issuance of an arbitrary assessment, hoping that such assessment will be in its favor, and then submit the regular accounts if the assessment was not in its favor. Based on the above, the Department decided to reject Plaintiff objection to the estimated zakat assessment for the year 1440 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Reject the objection filed by the Plaintiff (.....), (ID No.), regarding the estimated Zakat assessment for 1440 AH.

This Decision was issued in the presence of both parties in accordance with the provisions of Article 56 of the Law of Civil Procedures. The Department has set a thirty-day period for receiving a copy of the Decision via the website of the General Secretariat of the Zakat, Tax and Customs Committees. This Decision is considered final and enforceable as per Article 42 of the Tax Dispute and Violation Committee Procedures

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



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-928

Case No. Z-49640-2021

Key words:

Zakat - Estimate - Categories that are subject to Rules of Calculating Zakat for Estimate Taxpayers - Estimate Zakat base - Capital registered in the commercial register - Sales declared in VAT returns

Abstract

Zakat Payer filed this case requesting cancellation of the estimate zakat assessment for the year 1441 AH and challenging its action represented in making an estimate assessment. Zakat Payer explained that it has submitted its declarations based on financial statements and, therefore; request amendment of Defendant action. The Department found that Defendant applied the prescribed equation to the sales declared in the VAT returns provided by Zakat Payer. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summarized as follows: The Plaintiff (...), (holder of National ID No (...)) raised an objection to the estimate zakat assessment for the year 1441 AH issued by ZATCA. Plaintiff challenged Defendant action represented in making an estimate assessment and explained that it has submitted its declaration based on financial statements and, therefore; request amendment of Defendant action.

Having presented the statement of claim to Defendant, it responded that it had made Plaintiff assessment in accordance with Articles (3) & (4) of Rules of Calculating Zakat for Estimate Taxpayers issued by Minister of Finance Resolution No. (852) dated 28/02/1441 AH, as zakat base was calculated based on VAT sales.

On Thursday, 21/04/2022 AD, the Department held a remote session to hear the Case. However, neither the Plaintiff nor its Representative was present, despite nor duly notified of the session date. Representative of the Defendant, (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated/../. AH. Having reviewed the Case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures,



the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form, Plaintiff filed its case requesting amendment of ZATCA Decision with regard to the estimate zakat assessment for the year 1441 AH. Since this dispute is a tax dispute, it falls within the jurisdiction of Committee for Determination 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 person with a capacity, and within the period prescribed by Law, the Department accepted the Case in form.

On merits, having reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment for the year 1441 AH issued by Defendant. Plaintiff raised an objection to Defendant action represented in making an estimate assessment, and requested amendment thereof. While Defendant argued that its action is valid. Paragraph (Third) of Rules of Calculating Zakat for Estimate Taxpayers issued by Minister of Finance Resolution No. (852) dated 28/02/1441 AH, provides that: "The Zakat base of Zakat payer subject to these Rules shall be evaluated by identifying capital that is appropriate to the size of Zakat payer's activity, according to the following equation: $(\text{Sales}/8) + (\text{Sales} \times 15\%)$, and not less than capital set forth in the commercial registration, required license, or other documents enabling the Authority from quantifying the capital." Article (4) of Rules of Calculating Zakat for Estimate Taxpayers stipulates that: "Sales set forth in (III) may not be less than sales disclosed in VAT return, including zero-rated and VAT-exempt sales in addition to the data disclosed in the real estate transactional tax (RETT) for economic activities for the most recent financial period or year disclosed. Sales disclosed in VAT return and RETT statements shall be deemed the gross sales of Zakat payer's financial year...." Based on the above and after reviewing Case file, including all documents and defenses attached thereto, it turned out that Plaintiff belonged to categories that are subject to Rules of Calculating Zakat for Estimate Taxpayers, so Defendant had the right to collect information and calculate zakat base using the estimate method in accordance with Article (3), which indicated that Plaintiff zakat base shall be estimated based on the equation mentioned in the abovementioned article, which states: " $(\text{Sales}/8) + [\text{Sales} \times 15\%]$, and not less than the capital set forth in the commercial register." Defendant calculated zakat base based on VAT sales, which indicates that Defendant applied the abovementioned equation to sales disclosed in VAT returns submitted by the plaintiff. As for Plaintiff claim to be estimated based on financial statements, it turned out that Plaintiff did not submit a letter requesting the same to Defendant based on the attached documents. Accordingly, the Department decided to reject Plaintiff objection to the estimated zakat assessment for the year 1441 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:



Reject the objection filed by the Plaintiff (.....), (ID No.), regarding the estimated Zakat assessment for 441AH.

This Decision was issued in the presence of both parties . in accordance with the provisions of Article 56 of the Law of Civil Procedures. The Department has set a thirty-day period for receiving a copy of the Decision via the website of the General Secretariat of the Zakat, Tax and Customs Committees. This Decision is considered final and enforceable as per Article 42 of the Tax Dispute and Violation Committee Procedures.

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



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-932
Case No. Z-34402-2021

Key words:

Zakat - Estimate - The percentage applied when calculating zakat base using the estimate method - Categories that are not obligated to keep regular books and records - Estimate profit percentage

Abstract

Zakat Payer filed this case requesting cancellation of the estimate zakat assessment for the year 1438 AH and challenging the estimate assessment percentage applied for the year 1438 AH. Therefore, Zakat Payer requested amendment of defendant action. The Department found that Defendant had applied a 10.5% estimate profit based on Zakat Payer activity, records, and employee number, which confirms the validity of Defendant action. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Paragraph \(6\) and Paragraph \(6/b\) of Article \(13\) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summarized in that Plaintiff (...), National ID No. (...), in its capacity owner of (.....) Institution, C. R. No. (...) subject to the commercial register, filed an objection to the estimate zakat assessment for the year 1438 AH issued by ZATCA, challenging the percentage applied in the estimate assessment for the year 1438 AH, and requesting amendment of Defendant Decision.

Having presented the statement of claim to Defendant, it responded that its Decision was taken in accordance with Article (13) of Implementing Regulation for Zakat Collection issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH, as zakat base was calculated using the estimate method and based on Plaintiff activity, records, and employee number.

On Tuesday, 19/04/2022 AD, the Department held an e-session to consider the Case. No one appeared to represent Plaintiff despite being duly notified of the session date. For the Defendant, (Mr.....), holder of National ID No. (...), appeared pursuant to POA No. (.), issued by ZATCA Vice Governor for Legal Affairs, (...) on .../.. /..... AH. Having reviewed



Case file and since the Case was ripe for adjudication as per provisions of Article (20) the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1438, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment for the year 1438 AH issued by Defendant. Plaintiff raised an objection to Defendant action represented in making an estimate assessment, and requested amendment thereof. While Defendant argued that its action is valid. Article (13.6) of Implementing Regulation for Zakat Collection issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH stipulates that: "6. Estimate zakat base consists of the following unless Zakat Payer's declaration shows a larger base: A. Working capital shall be determined by any available means, whether through the commercial register, company contracts and articles of association or any other supporting document. If it turns out that the actual working capital differs from the same, ZATCA shall be entitled to determine it in proportion to the volume of activity and the number of capital cycles according to industry, trade or business norms. B. The net profits realized during the year, which are estimated at a minimum rate of 15% of total revenues, except for the following categories, the rate shall be as follows: ... Contractors: (10,5%)." Based on the above and having reviewed data provided by both litigants, it turned out that the dispute happened as a result of Plaintiff objection to the percentage applied when calculating zakat base using the estimate method. Since Plaintiff belonged to categories that are not obligated to have regular accounting books and records, Defendant had the right to collect information and calculate zakat base using the estimate method in accordance with Article (13.6.B) of the Regulations and based on information that reflects the actual and real Plaintiff activity. Upon reviewing the documents contained in Case file, it turned out that Plaintiff is engaged in general construction activity; therefore, the estimate profit percentage that shall be applied in accordance with Article (13.6.B) is (15%). Based on the estimate assessment, Defendant applied a (10.5%) estimate profit based on Plaintiff activity, records, and employee number, which confirms the validity of Defendant action with relation to profit percentage applied while making the estimate assessment subject to the objection. Therefore, the Department decided to reject Plaintiff objection to the estimate zakat assessment for the year 1438 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:



Decision:

Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat assessment for 1439 AH.

This Decision was made in presence of both litigants, in accordance with provisions of Article (56) of Law of Civil Procedures.

The Department has set thirty days for delivery of the Decision copy through the General Secretariat of Zakat, Tax and Customs Committees website. This Decision shall be deemed final and enforceable as per 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-933

Case No. Z-13805-2020

Key words:

Zakat - Estimate - Financial Statements - Zakat Declarations - Adding Current Accounts Payable - Zakat Base - Accounts Payable Amount

Abstract

Zakat Payer filed this case requesting cancellation of ZATCA action with relation to the estimate zakat assessment for the year 1434 AH. Zakat Payer challenged ZATCA action represented in making an estimate assessment and requested amendment thereof. The Department found that the amount of related payable accounts was included in liabilities and was consistent with the amended assessment issued by ZATCA, and that nothing in the explanatory notes confirmed the validity of its objection. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- [Article \(21.8.C\) and \(21.10\) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

Facts of this case are summarized as follows: Mr. ..., holder of National ID No. (...), in his capacity as Attorney of Plaintiff (.....), holder of National ID No. (...), subject to POA No. (...), filed an objection to the estimate zakat assessment for the year 1434 AH issued by ZATCA, claiming that a contract was concluded with (...) Company (Auditors and Chartered Accountants) to perform auditing and prepare financial statements of the institution for the year 1434 AH, on 04/01/2015 AD. Accordingly, the auditing company uploaded the financial statements to Qawaem platform affiliated with Ministry of Commerce retroactively, especially since the concerned entity is an institution, not a company, in accordance with Ministry of Commerce Decision confirming that the financial statements were submitted thereto. Moreover, the financial statements prepared by (...)/the auditing company were different from the re-assessment made by ZATCA for the year 1434 AH, as ZATCA assessment was estimated at (SAR 168,502.55), while the auditing company assessment was estimated at (SAR 20,067). Additionally, Zakat Payer claimed that ZATCA incorrectly added the current payable accounts of the institution to zakat base under the category "Financing", taking into account that there was no financing provided by his father to the institution, but rather such amounts represented



accounting settlements that were closed in the current account against contracts that were not implemented, generated unrealized profits, carried forward in balance sheets, and added to zakat base more than once, noting that the accounting office prepared all balance sheets at the same time.

Having presented the statement of claim to Defendant, it responded that its Decision was taken in accordance with Article (21) of Implementing Regulation for Zakat Collection issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH. Defendant claimed that zakat base was calculated based on the approved financial statements, and Plaintiff did not previously disclose that there were any financial statements approved by a chartered accountant and that it used to be estimated based on the estimate method in accordance with its declaration that there are no financial statements. However, ZATCA discovered otherwise, as there were financial statements approved by a chartered accountant, issued in previous dates, and were not disclosed earlier. After considering such financial statements, it was evident that the institution paid amounts less than the due legal zakat and such paid amounts were deducted when making the estimate assessment. Accordingly, ZATCA has experienced the powers granted thereto, authorizing it to make an estimate zakat assessment based on the information and data collected by it. In accordance with powers granted to it by law, ZATCA shall have the right to draw upon the information collected by it so as to calculate zakat base that fairly reflects the real Plaintiff activity in light of the circumstances and facts related to the Case and the information available about Plaintiff, whether based on the evidence and documents provided by Zakat Payer or by referring directly and continuously to any information related to Plaintiff and held by any third party, which indicates import size, contracts, labor, loans, and subsidies received by Plaintiff. Therefore, ZATCA confirmed that its Decision, subject matter of the Case, was taken based on valid legal reasons stipulated in its Grounds, and Plaintiff must prove the invalidity of such Decision.

On Monday, 09/05/2022 AD, the Department held an e-session to consider the Case. The session was attended by Plaintiff Attorney (....), holder of National ID No. (...), appeared pursuant to POA No. (...). In addition, Defendant's Representative, holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) on .../.../..... AH. When asking both litigants if they had any other statements to add, they responded that they are satisfied with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1434, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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, upon reviewing documents and papers contained in Case file as well as requests, defenses, and arguments presented by both litigants, the Department found that



the dispute happened as a result of the estimate zakat assessment issued Defendant and Plaintiff request to amend the same. Defendant argued that is Decision is valid. Article (21.8.C) of Implementing Regulation for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH, provides that: “The Authority may make or modify the assessment at any time without being bound by the time limit specified in the following cases: C. If it is found that the declaration contains invalid information. Article (21.10) of Implementing Regulation for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH, provides that: 9. The Authority may rectify the error resulting from misapplication of law and instructions within five years from the end of the time limit specified for submitting the zakat declaration for the zakat year based on the Zakat Payer’s request, or if the error is discovered by the Authority or the regulatory authorities”. Based on the above, upon reviewing all data provided by both litigants, it turned out that Plaintiff requested application of the estimate method instead of calculating legal zakat based on financial statements and reducing the estimated zakat amount because such financial statements were issued at a date following the years of dispute. On the other hand, Defendant requested zakat assessment be made based on the financial statements issued after submitting zakat declarations. Since Plaintiff acknowledged that it has financial statements certified by a chartered accountant, issued after submission of zakat declarations, and uploaded to the Qawaem platform affiliated with the Ministry of Commerce, and since Defendant has made zakat assessment based on the financial statements approved and certified by a chartered accountant, Plaintiff had no right to request to be estimated based on the estimate method because the financial statements are the fundamental basis for calculating zakat assessments. With regard to Plaintiff objection to adding the current payable accounts of the institution, claiming that such amounts did not represent financing but rather were accounting settlements that were closed in the current account against contracts that were not implemented, generated unrealized profits, carried forward in balance sheets, and added to zakat base more than once. After reviewing the financial statements, it turned out that the amounts of related payable accounts were included in liabilities and were consistent with the amended assessment issued by ZATCA, and that nothing in the explanatory notes confirmed the validity of its objection. Accordingly, the Department decided to reject Plaintiff objection to zakat assessment for the year 1434 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat assessment for 1434 AH.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-936
Case No. Z-46224-2021

Key words:

Zakat - Estimate - Categories that are not obligated to keep regular books and records - Capital registered in commercial register - Calculating the estimate profit

Abstract

Zakat Payer filed this case requesting cancellation of ZATCA action with regard to zakat assessment for the year 1438 AH. Zakat Payer challenged ZATCA action with relation to making an estimate zakat assessment for the year 1438 AH with the amount of (SAR 2,500), although the institution generated no income during this year. The Department was satisfied that Plaintiff failed to submit the supporting document proving that the institution achieved no income during the year of dispute. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Article \(42\) of Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Article \(56\) of the Law of Civil Procedure promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Article \(13.6.B\) and Article \(20.3\) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summarized in that Plaintiff (...), National ID No. (...), in its capacity owner of (.....) Institution, C.R No. (...), subject to the commercial register, filed an objection to the estimate zakat assessment for the year 1438 AH, issued by ZATCA. Plaintiff challenged ZATCA action represented in making an estimate zakat assessment for the year 1438 AH with the amount of (SAR 2,500), although the institution generated no income during this year. Plaintiff claimed that it has a commercial register in the name of (... Institution) with a registered capital of (SAR 25,000), and also has a zakat certificate issued by ZATCA. Plaintiff also added that it was surprised by issuance of the zakat bill for the year 1436 AH with the amount of (SAR 2,500), and clarified that it was unaware of such bill, was not notified that it had to submit a zakat declaration, and was notified of such amount after suspension of the institution activity. After considering the reasons for such suspension, it was evident that the reason was Plaintiff failure to pay such a bill. Therefore, Plaintiff raised this objection to the large zakat amount due to



inconvenience. Plaintiff also mentioned that the last declaration for the year 1440 AH was issued with the amount of (SAR 625) and, therefore, requested making a reassessment based on the last declaration with the amount of (SAR 625), because the institution achieved no income in order to incur such amount imposed thereon.

Having presented the statement of claim to Defendant, it responded that it had made its assessment on 01/07/1441 AH, and Plaintiff did not file any objection to date, and the period for submitting its Reply to this Case after the assessment date exceeded (60) days. Therefore, the legally prescribed period for filing an objection elapsed, which makes the appealed Decision unchallengeable for being time-barred in accordance with Article (3.1) of Tax Dispute and Violation Committee Procedures.

On Monday, 09/05/2022 AD, the Department held an e-session to consider the Case. No one appeared to represent Plaintiff despite being duly notified of the session date. For the Defendant (...), the Defendant Representative, holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, dated ../.. /... AH. Having reviewed Case file and since the Case was ripe for adjudication as per provisions of Article (20) of Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1438, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment issued by Defendant, and Plaintiff requested amendment thereof. While Defendant argued that its action was valid. Article (13.6) of Implementing Regulation for Zakat Collection issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH stipulates that: "6. Estimate zakat base consists of the following unless Zakat Payer's declaration shows a larger base: A. Working capital shall be determined by any available means, whether through the commercial register, company contracts and articles of association or any other supporting document. If it turns out that the actual working capital differs from the same, ZATCA shall be entitled to determine it in proportion to the volume of activity and the number of capital cycles according to industry, trade or business norms. B. The net profits realized during the year, which are estimated at a minimum rate of 15% of total revenues, except for the following categories, the rate shall be as follows: 5. Contractors - profit percentage (10.5%)." Additionally, Article (20.3) of the same Regulations, which states that: "The zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the zakat payer cannot prove its validity or make an estimate assessment as per its



discretion in light of the relevant circumstances and facts as well as the data available to it". Based on the above and after reviewing data provided by both litigants, it turned out that Plaintiff belongs to categories that are not obligated to have regular accounting books and records, so Defendant had the right to collect information and calculate zakat base using the estimate method in accordance with Article (13.6.B) of Implementing Regulation for Zakat Collections and based on information that reflects the actual and real Plaintiff activity. Upon reviewing the estimate assessment issued by ZATCA, it was evident that Plaintiff assessment was made based on capital plus an estimate profit. It is worth noting that Plaintiff failed to submit any documents supporting its perspective that the institution achieved no income during the year of dispute. In the light of the foregoing and after reviewing statements provided by both litigants, it became clear that Plaintiff requested reduction of the estimate assessment amount for the year 1438 AH, estimated at (SAR 2,500), and calculating zakat based on the capital registered in the commercial register, so that the due zakat amount should have been (SAR 625) - (capital: 25,000 * 2.5%) - without calculating any estimated profits because the institution achieved no income during this year. On the other hand, ZATCA only requested dismissal of the case in form and did not submit any Reply in terms of the subjective part. Since Plaintiff belongs to categories that are not obligated to have regular accounting books and records, Defendant had the right to collect information and calculate zakat base using the estimate method in accordance with Article (13.6.B) of Implementing Regulation for Zakat Collections and based on information that reflects the actual and real Plaintiff activity. When reviewing the estimate assessment issued by ZATCA, it was evident that Plaintiff assessment was made based on capital plus an estimate profit. It is worth noting that Plaintiff failed to submit any documents supporting its perspective that the institution achieved no income during the year of dispute. Based on the above, the Department decided to reject Plaintiff objection to the estimate zakat assessment for the year 1438 AH. For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss objection filed by Plaintiff (...), (ID No.), regarding the estimated Zakat assessment for 1439 AH.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-942
Case No. Z-45974-2021

Key words:

Zakat - Estimate - Categories that are not obligated to keep regular books and records - Estimate profit percentage - Amounts mentioned in contracts

Abstract

Zakat Payer filed this case requesting cancellation of ZATCA Decision with regard to zakat assessment for the year 1440 AH. Zakat Payer challenged ZATCA action represented in making an estimate zakat assessment and requested amendment thereof by excluding a contract with the value of (SAR 4,740.000) from zakat base because such contract was previously added to 1438 zakat base. Therefore, Plaintiff requested amendment of ZATCA action. The Department found that Plaintiff concluded the engineering services contract – supervising lighting installation and maintenance – against the amount of (SAR 4,740.000) and the engineering services contract – supervising – against the amount of (SAR 1,224.000). Therefore, the Department decided to amend the Defendant action.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Article \(42\) of Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Article \(56\) of the Law of Civil Procedure promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Article \(13.6.B\) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summarized in that Plaintiff (...), holder National ID No. (...), in his capacity as owner of (...) Institution, CR No. (...), subject to the commercial register, filed an objection to the estimate zakat assessment for the year 1440 AH issued by ZATCA, for the period ending 29/12/1440 AH. Plaintiff claimed that a contract with the value of (SAR 4,740.000) to be excluded from zakat base because it was previously added to 1438 zakat base and, therefore, requested amendment of ZATCA action.

Having presented the statement of claim to Defendant, it responded that its action was performed in accordance with Articles (13) of Implementing Regulation for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH, as zakat base was calculated based on contracts concluded with Qassim Municipality, which were not disclosed in the declaration, with the total amount of (SAR 4,954.315), and a (20%) estimate



profit percentage was applied, plus the capital registered in the commercial register No. (...).

On Sunday, 08/05/2022 AD, the Department held an e-session to consider the Case. No one appeared to represent Plaintiff despite being duly notified of the session date. For the Defendant (...), Defendant Representative (...), holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated .../.../... AH. Having reviewed the case file and since the Case was ripe for adjudication as per Article (20) of the Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering its Decision.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1440, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment for the year 1440 AH issued by Defendant. Plaintiff raised an objection to Defendant action represented in making an estimate assessment, and requested amendment thereof. While Defendant argued that its action is valid. Article (13.6) of Implementing Regulation for Zakat Collection issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH stipulates that: "6. Estimate zakat base consists of the following unless Zakat Payer's declaration shows a larger base: A. Working capital shall be determined by any available means, whether through the commercial register, company contracts and articles of association or any other supporting document. If it turns out that the actual working capital differs from the same, ZATCA shall be entitled to determine it in proportion to the volume of activity and the number of capital cycles according to industry, trade or business norms. B. The net profits realized during the year, which are estimated at a minimum rate of 15% of total revenues, except for the following categories, the rate shall be as follows: Self-employed professional such as doctors ... the profit percentage shall be 20%...." Based on the above and after reviewing data provided by both litigants, it turned out that Plaintiff belongs to categories that are not obligated to have regular accounting books and records, so Defendant had the right to collect information and calculate zakat base using the estimate method in accordance with Article (13.6.B) of Implementing Regulation for Zakat Collections and based on information that reflects the actual and real Plaintiff activity. Upon reviewing documents contained in Case file, it was evident that Plaintiff is engaged in engineering consulting activity; therefore, a (20%) estimated profit percentage shall be applied in accordance with Article (13.6.B). With reference to the estimate assessment being challenged, it turned out that Defendant applied a (20%) estimated



profit percentage; therefore, Defendant action with regard to the profit percentage applied in the estimate assessment was valid. When reviewing the attached contracts, the Department found that Plaintiff concluded the engineering services contract—supervising lighting installation and maintenance projects in Buraidah—with Qassim Municipality on 01/11/1436 AH, against (SAR 4,740,000), and the engineering services contract—supervising the random scheme development project in Buraidah—with Qassim Municipality on 11/10/1434 AH, against (SAR 1,224,000). With regard to Plaintiff claim that this contract was included in zakat assessment for a previous year, Plaintiff failed to provide any evidence proving the same. Based on the above, the Department decided to amend Defendant action with regard to estimated zakat assessment for the year 1440 AH based on the correct amounts mentioned in contracts.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Amend Defendant action with regard to estimated zakat assessment for the year 1440 AH based on the correct amounts mentioned in contracts.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

Decision No. IZJ-2022-949

Case No. Z-67491-2021

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

Key words:

Zakat - Estimate - Capital Registered in Commercial Register - Cancellation of Commercial Register

Abstract

Zakat Payer filed this case requesting cancellation of ZATCA Decision with relation to the estimate zakat assessment for the year 1438 AH. Zakat Payer challenged ZATCA action represented in making an estimate assessment and requested amendment thereof. The Department found that Plaintiff was estimated based on the capital registered in the commercial register, and Plaintiff failed to provide any evidence of commercial register cancellation. Therefore, the Department decided to reject Plaintiff objection.

Instruments:

- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- Article (13.6.A) of [Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH](#)

Facts:

The facts of this Case are summarized as follows: Plaintiff/(.....), holder of National ID No (...), in his capacity as the owner of..... Institution, TIN No....., filed an objection to the estimate zakat assessment for the year 1438 AH issued by ZATCA, claiming that it ceased to practice the business activity, and requested cancellation of Defendant action. Having presented the statement of claim to Defendant, it responded that it had calculated legal zakat based on the capital registered in the commercial register in accordance with Articles (3) & (4) Rules of Calculating Zakat for Estimate Taxpayers issued by Minister of Finance Resolution No. (852) dated 28/02/1441 AH.

On, ../. /.. /....., the Department held an e-session to consider the Case. This session was attended by Plaintiff/....., holder of National ID No. (...), subject to the commercial register attached to Case file, and Defendant Representative, holder of National ID No. (...), POA No. (...) dated .././... issued by ZATCA Vice Governor for Legal Affairs. 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 before adjudication.

Grounds:



Having reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1438 AH, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment for the year 1438 AH issued by Defendant. Plaintiff objected to Defendant action represented in making an estimate assessment and requested amendment thereof. On the other hand, Defendant argued that its action is valid in accordance with Article (13.6.A) of Implementing Regulation for Zakat Collection, which stipulates that: “6. Estimate zakat base consists of the following unless Zakat Payer’s declaration shows a larger base: a. Working capital, which shall be determined by any available method, whether from the commercial register, company contracts and bylaws, or any other supporting document. If it appears that the actual working capital differs, ZATCA shall determine it in a manner consistent with the size of the activity and the number of capital cycles according to the custom in each industry, trade, or business”. Based on the above and after reviewing the estimate zakat assessment issued by ZATCA, it was clear that Plaintiff was estimated based on the capital registered in the commercial register. Since Plaintiff failed to provide any evidence of commercial register cancellation, the Department decided to dismiss the objection filed by Plaintiff against the estimate zakat assessment for the year 1438 AH.

Based on the abovementioned Grounds and after deliberation, the Department unanimously decided as follows:

Decision:

Reject the objection filed by Plaintiff/....., holder of National ID No (...), to the estimate zakat assessment for the year 1438 AH.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-956
Case No. Z-44356-2021

Key words:

Zakat - Estimate - Capital Registered in Commercial Register - Cancellation of Commercial Register

Abstract

Zakat Payer filed this Case requesting cancellation of ZATCA Decision with relation to the estimate zakat assessment for the year 1428 AH. Zakat Payer challenged ZATCA action represented in making an estimate assessment and requested amendment thereof. The Department found that the capital registered in both commercial registers was estimated at five hundred thousand Saudi riyals (SAR 500,000), and that the commercial register was cancelled after the year of zakat assessment. Therefore, the Department decided to reject Plaintiff objection.

Instruments:

- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summarized as follows: Plaintiff/... holder of national ID No. (...), in his capacity as the owner of..... Institution, CR No. (...), subject to the commercial register, filed its objection to the estimate zakat assessment for the year 1428 AH issued by ZATCA. Plaintiff claimed that it did not practice the business activity since issuance of the commercial register and did not recruit any workers to practice such business activity. Plaintiff also submitted a certificate issued by the Ministry of Human Resources and Social Development proving that there were no sponsored personnel registered in its name and that the commercial register expired on.../.../... and was not renewed because there was no need for doing so. Plaintiff was ignorant that the commercial register should have been cancelled. After that, Plaintiff clarified that he engaged in real estate business and obtained a commercial register to practice such business officially. Then, Plaintiff was notified by Defendant that there were legal zakat dues that must be paid.

Having presented the statement of claim to Defendant, it responded that its Decision was taken in accordance with Rules of Calculating Zakat for Estimate Taxpayers issued by



Minister of Finance Resolution No. (852) dated 28/02/1441 AH, as zakat base was calculated based on the capital registered in the commercial register.

On, ../. /.. /....., the Department held an e-session to consider the Case. This session was attended by Plaintiff/....., holder of National ID No. (...), subject to the commercial register, and Defendant Representative, holder of National ID No. (...), POA No. (...) dated .././... issued by ZATCA Vice Governor for Legal Affairs. 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 reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1428, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment for the year 1428 AH issued by Defendant. Plaintiff raised an objection to Defendant action represented in making an estimate assessment and requested amendment thereof. While Defendant argued that its action was valid. Based on the above and after reviewing the Case file and zakat assessment made by Defendant for the year of dispute, the Department found that the capital registered in both commercial registers was estimated at five hundred thousand Saudi riyals (SAR 500,000) and that the commercial register was cancelled on (.././...), i.e. after the year of zakat assessment being challenged. Therefore, the Department decided to reject Plaintiff objection to the estimated zakat assessment for the year 1428 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Reject the objection filed by Plaintiff/....., holder of National ID No (...), against the estimate zakat assessment for the year 1428 AH.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZJ-2022-966

Case No. Z-40558-2021

Key words:

Zakat - Estimate - Capital Registered in Commercial Register - Cancellation of Commercial Register

Abstract

Zakat Payer filed this case requesting cancellation of ZATCA Decision with relation to the estimate zakat assessment for the year 1440 AH. Plaintiff challenged ZATCA action represented in making an estimate assessment and requested amendment thereof. The Department found that the capital registered in the commercial register was estimated at one hundred thousand Saudi riyals (SAR 100,000), and the commercial register was cancelled after the year of zakat assessment. Therefore, the Department decided to reject Plaintiff objection.

Instruments:

- Article (42) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- Article (56) of [Law of Civil Procedures promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- Article (13.6.A) of [Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH](#)

Facts:

The facts of this Case are summarized as follows: Plaintiff/... holder of national ID No. (...), in his capacity as the owner of..... Institution, CR No. (...), subject to the commercial register, filed an objection to the estimate zakat assessment for the year 1440 AH issued by ZATCA. Plaintiff claimed that it did not practice the business activity as it presented a request to the Ministry of Industry and Mineral Resources to establish a factory and the preliminary license No. (...) dated .././... was issued for the project for the period of one year. Then, Plaintiff applied for industrial land to establish the project, and the requirements of such application included obtaining a sole proprietorship commercial register with a capital that is appropriate to the value of the investment in the project. Therefore, the commercial register No. (...), dated .././... was issued for the institution with the capital of (SAR 100,000), and since then Plaintiff was waiting for allocation of the project land for five years, and no business or industrial activity related to this commercial register was carried out, and no workers or employees were recruited because the project land was not allocated and the project itself was not implemented on



the ground. Plaintiff added that the issued industrial license was preliminary, no business activity or employee recruitment is allowed thereby, and such industrial license was expired on .././..., subject to the supporting documents issued by the Ministry of Industry and Mineral Resources.

Having presented the statement of claim to Defendant, it responded that its Decision was taken in accordance with Articles (3) & (4) of Rules of Calculating Zakat for Estimate Taxpayers issued by Minister of Finance Resolution No. (852) dated 28/02/1441 AH, as zakat base was calculated based on the capital registered in the commercial register.

On, ../. /.. /....., the Department held an e-session to consider the Case. Neither Plaintiff nor its Representative attended the session despite being notified of the session date. Defendant Representative, holder of National ID No. (...), POA No. (...) dated .././... issued by ZATCA Vice Governor for Legal Affairs attended the session. Having reviewed Case file and since the Case was ripe for adjudication as per provisions of Article (20) Tax Dispute and Violation Committee Procedures, the Department decided to adjourn the session for deliberation in preparation for delivering a Decision.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff aims with its claim to overturn ZATCA Decision regarding estimate zakat assessment for 1440, and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of 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 reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment for the year 1440 AH issued by Defendant. Plaintiff challenged Defendant action represented in making an estimate assessment and requested amendment thereof. On the other hand, Defendant argued that its action was valid in accordance with Article (13.6.A) of Implementing Regulation for Zakat Collection, which stipulates that: "6. Estimate zakat base consists of the following unless Zakat Payer's declaration shows a larger base: A. Working capital, which shall be determined by any available means, whether through the commercial register, company contracts and articles of association or any other supporting document. If it turns out that the actual working capital differs from the same, ZATCA shall be entitled to determine the capital in proportion to the activity size and the number of capital cycles according to industry, trade or business norms." Based on the above and after reviewing the Case file and the zakat assessment made by Defendant/ZATCA for the year of dispute, the Department found that the capital registered in the commercial register was estimated at one hundred thousand Saudi riyals (SAR 100,000), and the commercial register was cancelled on (.././...), i.e. after the year of zakat assessment being challenged. Therefore, the Department decided to reject Plaintiff objection to the estimated zakat assessment for the year 1440 AH.

For the aforementioned Grounds, the Department unanimously decided as follows:



Decision:

Reject the objection filed by Plaintiff/....., holder of National ID No (...), against the estimate zakat assessment for the year 1440 AH.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZD-2022-741
Case No. Z-2021-37728

Key words:

Zakat - Estimate - Cancellation of the Commercial Register

Abstract

Zakat Payer filed this case requesting cancellation of ZATCA Decision with relation to the zakat assessment for the period (1429 - 1439 A.H). Zakat Payer requested to be exempted from the due amounts, claiming that the commercial register was cancelled. The Department found that Zakat Payer submitted a certificate proving cancellation of the commercial register, but such cancellation occurred after the years being objected. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- Paragraph (6/a) of Article (13) of [Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summed up as follows: Mr..... (holder of national ID No.....), filed an objection to the zakat assessment for the period (1429-1439 A.H) issued by ZATCA, and requested to be exempted from the due amounts, claiming that the commercial register was cancelled on .../.../....

Having presented the statement of claim to Defendant, it presented a Reply, in which it responded that its action was performed in accordance with Article (13) of Implementing Regulation for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH. ZATCA believed that it had exercised the authority granted to it by law. On....., .../.../...., the Department held an e-session to consider the Case. Neither the Plaintiff nor its Representative attended the session despite being duly notified of the session date. Mr. (.....) (holder of national ID No.), attended the session in his capacity as a Representative of the Defendant/ZATCA, pursuant to the Authorization No. (...) issued by ZATCA Deputy Governor for Legal Affairs on .../.../.... When asking Defendant Representative about Plaintiff Case, he adhered to Defendant response previously submitted to General Secretariat of Zakat, Tax and Customs Committees. Having asked the Defendant Representative if he had any other statements, he replied "no". Since the Case was ripe for adjudication, the Department decided to close the pleading and deliberation.



Grounds:

Having reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form, Plaintiff filed this case petitioning for cancellation of ZATCA Decision with regard to the estimate zakat assessment for the period (1429 -1439 AH). Since this dispute is a tax dispute, it falls within the jurisdiction of Committee for Determination 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 person with a capacity, and within the period prescribed by Law, the Department decided to accept the Case in form.

On merits, having reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment for the period (1429 - 1439 AH) issued by Defendant. Plaintiff requested to be exempted from the due amounts. On the other hand, Defendant argued that its action was valid and was taken in accordance with Article (13.6.A) of Implementing Regulation for Zakat Collection, which stipulates that: "6. Estimate zakat base consists of the following unless Zakat Payer's declaration shows a larger base: A. Working capital shall be determined by any available means, whether through the commercial register, company contracts and its articles of association or any other supporting document. If it turns out that the actual working capital differs from the same, ZATCA shall be entitled to determine it in proportion to the volume of activity and the number of capital cycles according to industry, trade or business norms." Based on the above and after reviewing all papers and documents contained in Case file, it turned out that Plaintiff submitted a certificate of cancellation of the commercial register No. (...) on 16/01/1440 AH, but such cancellation occurred after the years being objected. Accordingly, the Department decided to reject Plaintiff objection.

For those Grounds and after deliberation, the Department unanimously decided to:

Decision:

Reject Plaintiff objection to the estimated zakat assessment for the period (1429 - 1439 AH).

This Decision was delivered in the presence of both litigants, and shall be deemed final and enforceable as per 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.



Key words:

Zakat - Estimate - Financial Statements - Categories that are Subject to Rules of Calculating Zakat for Estimate Taxpayers - Sales Recognized in VAT Returns - Estimating Capital

Abstract

Zakat Payer filed this case requesting cancellation of the estimate zakat assessment for the year 1441 AH, claiming that it had submitted a request for calculation of zakat base based on financial statements instead of the estimate method, and such request was rejected. Zakat Payer declared that it did not know the reason for such rejection and demanded for making assessment based on the financial statements. The Department found that Defendant applied the prescribed equation to the sales declared in the VAT returns provided by Zakat Payer. Therefore, the Department confirmed the validity of ZATCA action. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summed up as follows: Mr..... (holder of national ID No.....), in his capacity as owner of (....) Institution, (R No.....), filed an objection to the zakat assessment for the year 1441 A.H issued by ZATCA, claiming that it had submitted a request for calculation of zakat base based on financial statements instead of the estimate method on ... /.. .../ and such request was rejected. Zakat Payer declared that it did not know the reason for such rejection and demanded for making assessment based on the financial statements.

Having presented the statement of claim to Defendant, it submitted a Reply, in which it responded that, with regard to Plaintiff objection to ignoring financial statements when making zakat assessment, ZATCA clarified that Plaintiff did not submit a prior request for making assessment based on financial statements instead of the estimate method before the end of the fiscal year, but rather submitted the request on .../.../....., corresponding to ../../...., after issuing the assessment by ZATCA. Therefore, such request



was rejected. With regard to the estimate assessment of Zakat Payer, ZATCA made it clear that its Decision was taken in accordance with Articles (3) & (4) of Rules of Calculating Zakat for Estimate Taxpayers issued by Minister of Finance Resolution No. (852) dated 28/02/1441 AH. Therefore, ZATCA requested dismissal of the Case and reserving its right to submit further responses and clarifications.

On, .../ /.. /.... , the Department held an e-session to consider the Case. Neither Plaintiff nor its Representative attended the session despite being duly notified of the session date. Mr. (.....) (holder of national ID No. ...), attended the session in his capacity as a Representative of the Defendant/ZATCA, pursuant to the Authorization No. (...) issued by ZATCA Deputy Governor for Legal Affairs on .../.../.... When asking Defendant Representative about Plaintiff Case, he adhered to Defendant response previously submitted to General Secretariat of Zakat, Tax and Customs Committees. Having asked the Defendant Representative if he had any other statements, he replied “no”. Since the Case was ripe for adjudication, the Department decided to close the pleading and deliberation.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form, Plaintiff filed this case petitioning for cancellation of ZATCA Decision with regard to the estimate zakat assessment for the year 1441 A.H. Since this dispute is a zakat dispute, it falls within the jurisdiction of Committee for Determination 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 person with a capacity, and within the period prescribed by Law, the Department decided to accept the Case in form.

On merits, having reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment for the year 1441 AH issued by Defendant. Plaintiff called for making the zakat assessment based on financial statements, while Defendant argued that Plaintiff did not submit a prior request to make zakat assessment based on financial statements instead of the estimate method before the end of the fiscal year. Paragraph (Third) of Rules of Calculating Zakat for Estimate Taxpayers issued by Minister of Finance Resolution No. (852) dated 28/02/1441 AH provides that: “The Zakat base of Zakat payer subject to these Rules shall be evaluated by identifying capital that is appropriate to the size of Zakat payer’s activity, according to the following equation: $(\text{Sales}/8) + (\text{Sales} \times 15\%)$, and not less than capital set forth in the commercial register, required licenses, or other documents enabling the Authority from quantifying the capital.” Based on the above and since Plaintiff belongs to categories that are subject to Rules of Calculating Zakat for Estimate Taxpayers, Defendant had the right to collect information and calculate zakat base using the estimate method based on such Rules, which stipulate that profits of Plaintiff activity are estimated at (15%) of the sales declared in the VAT returns and estimating capital by dividing such sales by (8). Having reviewed the zakat assessment being objected, the Department found that Defendant applied the abovementioned equation to the sales declared in the VAT returns submitted by Plaintiff, which confirms the validity of Defendant action. As for Plaintiff claim requesting making the estimate assessment based on expenses, it is worth noting that



making an estimate assessment based on the profit percentage of (15%) means that Plaintiff estimate expenses constitute (85%) of its revenues. Accordingly, the Department decided to reject Plaintiff objection.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss objection filed by Plaintiff (...), (holder of national ID No.....) with regard to the estimate zakat assessment for the year 1441 A.H.

This Decision was delivered in the presence of both litigants, and shall be deemed final and enforceable as per 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZD-2022-702
Case No. Z-2021-55480

Key words:

Zakat - Estimate - Categories that are Subject to Rules of Calculating Zakat for Estimate Taxpayers - Estimating Profits - Sales Recognized in VAT Returns - Double Payment of Zakat

Abstract

Zakat Payer filed this case requesting cancellation of ZATCA Decision with regard to the estimate zakat assessment for the year 1441 AH, claiming that ZATCA estimated the annual revenues based on VAT returns. Zakat Payer declared that revenues recognized in VAT returns did not actually belong to Zakat Payer in whole, but only a small part thereof. The Department found that Defendant applied the prescribed equation to the sales declared in the VAT returns submitted by Zakat Payer. Therefore, the Department confirmed the validity of ZATCA action. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this Case are summarized as follows: Mr..... (holder of national ID No.....), in his capacity as owner of (...) Institution, (C.R No.....), filed an objection to the estimate zakat assessment for the year 1441 A.H issued by ZATCA. Plaintiff challenged Defendant action represented in making the estimate zakat assessment for the year 1441 A.H, claiming that ZATCA estimated the annual revenues based on VAT returns. Plaintiff declared that revenues recognized in VAT returns did not actually belong to Plaintiff in whole, but only a small part thereof, and mentioned that it deals with suppliers (agents of companies (...)) through receiving their goods at wholesale prices and then selling goods to outlets at retail prices, noting that the difference between the wholesale price and the retail price represents its share of total sales, which is (SAR 10) per package. Moreover, Plaintiff mentioned that the wholesale and retail prices are approved by the Ministry of Commerce and that the sale commission rate is a common market practice applicable in cigarette trading. Plaintiff declared that the total sales based on retail prices were incorrectly disclosed in VAT returns instead of disclosing its share of the total sales, which



is the difference between the wholesale price and the retail price. Furthermore, Plaintiff added that the related sales achieved by the supplier (agent) were recognized and disclosed as sales in its records and books, and the supplier paid the zakat imposed thereon. Accordingly, zakat was imposed on the same funds twice in the same year—once through imposing zakat on sales recognized in supplier financial statements and again through imposing zakat on the same sales recognized in Plaintiff financial statements—which resulted in double payment of zakat.

Having presented the statement of claim to Defendant, it responded with a Note including that its Decision was taken in accordance with Articles (3) & (4) of Rules of Calculating Zakat for Estimate Taxpayers issued by Minister of Finance Resolution No. (852) dated 28/02/1441 AH, as zakat base was calculated based on sales disclosed in VAT returns, which is estimated at (SAR 8,466,390).

On, .../ .. /.... , the Department held an e-session to consider the Case. Neither Plaintiff nor its Representative attended the session despite being duly notified of the session date. Mr. (.....) (holder of national ID No. ...), attended the session in his capacity as a Representative of the Defendant/ZATCA, pursuant to the Authorization No. (...) issued by ZATCA Deputy Governor for Legal Affairs on .../.../.... When asking Defendant Representative about Plaintiff Case, he adhered to Defendant responses previously submitted to General Secretariat of Zakat, Tax and Customs Committees. Having asked the Defendant Representative if he had any other statements, he replied “no”. Since the Case was ripe for adjudication, the Department decided to close the pleading and deliberation.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form, Plaintiff filed this case petitioning for cancellation of ZATCA Decision with regard to the estimate zakat assessment for the year 1441 A.H. Since this dispute is a zakat dispute, it falls within the jurisdiction of Committee for Determination 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 person with capacity, and within the period prescribed by Law, the Department decided to accept the Case in form.

On merits, having reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment for the year 1441 AH issued by Defendant. Plaintiff raised an objection to Defendant action represented in making an estimate assessment for the year 1441 A.H. While Defendant argued that it had calculated zakat base based on sales recognized in VAT returns. Paragraph (Third) of Rules of Calculating Zakat for Estimate Taxpayers issued by Minister of Finance Resolution No. (852) dated 28/02/1441 AH provides that: “The Zakat base of Zakat payer subject to these Rules shall be evaluated by identifying capital that is appropriate to the size of Zakat payer’s activity, according to the following equation: $[(\text{Sales}/8) + (\text{Sales} \times 15\%)]$ and not less than the capital stated in the commercial register or the licenses required for the activity or any other documents through which the authority can determine the capital” Based on the above, having reviewed data provided by both litigants and since Plaintiff belongs to categories that are subject to Rules of Calculating



Zakat for Estimate Taxpayers, Defendant had the right to collect information and calculate zakat base using the estimate method based on such Rules, which stipulate that profits of Plaintiff activity are estimated at (15%) of the sales declared in the VAT returns and estimating capital by dividing such sales by (8). Having reviewed the zakat assessment under dispute, the Department found that Defendant applied the abovementioned equation to sales declared in the VAT returns submitted by Plaintiff, which confirms the validity of Defendant action. With regard to Plaintiff objection claiming that the same funds were subject to zakat partially based on supplier financial statements, the matter that resulted in double payment of zakat, the Department found that Plaintiff failed to submit any evidence of the same and, therefore, decided to reject such objection. As for Plaintiff claim requesting making the estimate assessment based on expenses, it is worth noting that making an estimate assessment based on the profit percentage of (15%) means that Plaintiff estimate expenses constitute (85%) of its revenues. Accordingly, the Department decided to reject Plaintiff objection. For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Reject Plaintiff objection with regard to the estimate zakat assessment for the year 1441 AH.

This Decision was delivered in the presence of both litigants, and shall be deemed final and enforceable as per 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZD-2022-187
Case No. Z-28172-2020

Key words:

Zakat - Estimate - Categories that are Subject to Rules of Calculating Zakat for Estimate Taxpayers - Estimating Profits - Sales Recognized in VAT Returns - Estimating Capital

Abstract

Zakat Payer filed this case requesting cancellation of ZATCA Decision with regard to the estimate zakat assessment for the year 1441 AH, claiming that ZATCA estimated zakat based on a capital exceeding one million riyals, while the actual capital of the workshop was (SAR 10,000). It is worth noting that Zakat Payer belongs to categories that are subject to Rules of Calculating Zakat for Estimate Taxpayers. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summed up as follows: Mr..... (holder of national ID No.....), in his capacity as owner of (...) Institution, (C.R No.....), filed an objection to the estimate zakat assessment for the year 1441 AH issued by ZATCA, claiming that zakat was estimated based on a capital exceeding one million riyals, while the actual capital of the workshop was only (SAR 10,000). Plaintiff also mentioned that the relevant workshop is small, rented, and contains only 3 employees, and claimed that the workshop activity had almost stopped since the past year and the workshop expenses are greater than its revenues. Moreover, Plaintiff mentioned that zakat of the past year was estimated at (SAR 1000) only. Accordingly, Plaintiff called for reconsideration of zakat assessment based on the actual capital or in proportion to the sum paid for the past years.

Having presented the statement of claim to Defendant, it responded with a Note indicating that its Decision was taken in accordance with Articles (3) & (4) of Rules of Calculating Zakat for Estimate Taxpayers. Defendant also mentioned that it had made that assessment based on the capital registered in the commercial register before amendment. Therefore, Defendant believed that it had exercised its powers granted by law.



On, .../ /.. /....., the Department held an e-session to consider the Case. This session was attended by Plaintiff personally, and Defendant/ZATCA Representative (holder of National ID No...), subject to Authorization No. (...) dated ../..../... issued by ZATCA Vice Governor for Legal Affairs. When asking Defendant Representative about Plaintiff Case, she adhered to Defendant responses previously submitted to General Secretariat of Zakat, Tax and Customs. Having asked the Defendant Representative if she had any other statements, she replied “no”. Therefore, the Department decided to close the pleadings and deliberation.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form, Plaintiff filed this case petitioning for cancellation of ZATCA Decision with regard to the zakat assessment for the year 1441 A.H. Since this dispute is a zakat dispute, it falls within the jurisdiction of Committee for Determination of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a person with capacity and within the period prescribed by Law, the Department decided to accept the Case in form.

On merits, having reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment for the year 1440 AH issued by Defendant. Plaintiff mentioned that zakat was estimated based on a capital exceeding one million riyals, while the actual capital of the workshop was only (SAR 10,000). While Defendant argued that it had made its assessment based on the capital registered in the commercial register before the amendment, in accordance with Paragraph (Third) of Rules of Calculating Zakat for Estimate Taxpayers issued by Minister of Finance Resolution No. (852) dated 28/02/1441 AH, which provide that: “Zakat base for a Zakat Payer subject to these rules is estimated by determining a capital that is commensurate with the size of Zakat Payer's activity according to the following equation: $(\text{Sales}/8) + (\text{Sales} \times 15\%)$, and not less than capital set forth in the commercial register, required licenses, or other documents enabling the Authority from quantifying the capital.” Based on the above, after reviewing the Case file and the documents and defenses submitted by litigants, and since Plaintiff belongs to categories that are subject to Rules of Calculating Zakat for Estimate Taxpayers, Defendant had the right to collect information and calculate zakat base using the estimate method based on such Rules, which stipulate that profits of Plaintiff activity are estimated at (15%) of the sales declared in the VAT returns and estimating capital by dividing such sales by (8). Having reviewed the zakat assessment under dispute, the Department found that Defendant applied the abovementioned equation and Plaintiff failed to submit any documents supporting its claim. Therefore, the Department decided to reject Plaintiff objection.

For those Grounds and after deliberation, the Department unanimously decided to:

Decision:

Dismiss objection filed by Plaintiff (...), (holder of National ID No...), to the estimate zakat assessment for the year being objected.



This Decision was delivered in the presence of both litigants and shall be deemed final and enforceable as per 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZD-2022-593
Case No. Z-28900-2020

Key words:

Zakat - Estimate - Transfer of Institution Ownership to Another Person - Cancelling TIN - Capital Registered in the Commercial Register - Estimate Profit - Non-recurrence of One Year

Abstract

Zakat Payer filed this case requesting cancellation of ZATCA Decision with relation to the estimate zakat assessment for the year 1438 AH. Zakat Payer mentioned that it had filed an application to ZATCA to cancel TIN after paying all due amounts and that such application was accepted, and that he had contacted ZATCA customer service and was informed that TIN was cancelled. Zakat Payer also provided the evidence of transferring the institution ownership and filling an application for TIN cancellation. Therefore, the Department decided to cancel Defendant Decision.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- Paragraph (6/a) of Article (13) of [Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summed up as follows: Mr..... (TIN No.....), filed an objection to the estimate zakat assessment for the year 1438 AH issued by ZATCA, claiming that it had transferred the Institution ownership to another person on ... /.. /... Plaintiff also mentioned that it had filed an application to ZATCA to cancel TIN after paying all due amounts, and such application was accepted. Plaintiff also confirmed that he had contacted ZATCA customer service and was informed that TIN was cancelled. Therefore, Plaintiff called for cancellation of Defendant action.

Upon presenting the statement of claim to Defendant, it responded with a Note, in which it argued that the Case is rejected in form due to expiration of the prescribed period for filling an objection.

On, ... / .. / .., the Department held an e-session to consider the Case. The session was attended by (...) holder of National ID No (...), in his capacity as Attorney under the attached POA, and (...) holder of National ID No (...), in his capacity as the Defendant/ZATCA Representative by virtue of Authorization No..... dated .. / .. / ..,



issued by the Deputy Governor of ZATCA for Legal Affairs. Having asked Plaintiff Attorney about his claim, he maintained the statements contained in his statement of claims previously filed with General Secretariat of Zakat, Tax and Customs Committees. Having asked Defendant's Representative regarding his reply, he maintained his answers previously contained in his Reply submitted to General Secretariat of Tax Committees. Having asked both litigants if they had any other statements, they responded that they are satisfied with their earlier submissions presented to the Department. Consequently, the Department decided to close the pleadings and deliberation.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form, Plaintiff filed this case petitioning for cancellation of ZATCA Decision with regard to the estimate zakat assessment for the year 1441 A.H. Since this dispute is a zakat dispute, it falls within the jurisdiction of Committee for Determination 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 person with capacity, and within the period prescribed by Law, the Department decided to accept the Case in form.

On merits, having reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment for the year 1438 AH issued by Defendant. Plaintiff mentioned that it had transferred the Institution ownership to another person and cancelled TIN. Article (13.6.A) of Implementing Regulation for Zakat Collection stipulates that: "6. Estimate zakat base consists of the following unless Zakat Payer's declaration shows a larger base: A. Working capital shall be determined by any available means, whether through the commercial register, company contracts and its articles of association or any other supporting document. If it turns out that the actual working capital differs from the same, ZATCA shall be entitled to determine it in proportion to the volume of activity and the number of capital cycles according to industry, trade or business norms". Also, Article (13.6.A) of the same Regulations provides that: "If the sole proprietorship owner transfers ownership through sale or otherwise to another person, the year shall be interrupted, and zakat shall not be imposed." Based on the above, after reviewing the Case file side by side with all submitted documents and defenses, it turned out that Plaintiff provided evidence of transferring the Institution ownership in addition to an application for canceling TIN, and Defendant made the zakat assessment based on the capital registered in the commercial register in addition to an estimate profit. Plaintiff also provided evidence that the business activity did not complete a whole year during 1438 AH because the institution ownership was transferred on 11/09/1438 HA and also provided evidence that the institution was no longer owned by Plaintiff. Therefore, the Department decided to cancel Defendant Decision.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Cancel Defendant Decision with regard to the estimate zakat assessment for the year 1438 AH.



This Decision was delivered in the presence of both litigants, and shall be deemed final and enforceable as per 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.



Key words:

Zakat - Estimated - Revenues Recognized in VAT Returns - Calculating Zakat Base based on VAT Returns - Do not belong to categories for which a profit percentage is specified - Estimating Activity Profit

Abstract

Zakat Payer filed this case requesting cancellation of the estimate zakat assessment for the year 1439 AH, claiming that revenues recognized in VAT returns were estimated at (SAR 9,027.621), not as amended by ZATCA, that the percentage of revenues in VAT returns for that Hijri year was estimated at (90%), while it should be (70%), and that the net profit was less than (10%). Since Zakat Payer is engaged in transportation activity, i.e., Zakat Payer does not belong to categories for which the Regulations specified a profit percentage, ZATCA shall have the right to estimate the business activity profit. With regard to Zakat Payer claim that VAT returns for the Gregorian year corresponding to the Hijri year are not correct, Zakat Payer failed to provide any documents proving the validity of the same. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Law of Civil Procedures promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- Paragraph (6) of Article (13) of [Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summarized as follows:, (TIN No....), filed this case requesting cancellation of the estimate zakat assessment for the year 1439 AH issued by ZATCA, claiming that revenues recognized in VAT returns were estimated at (SAR 9,027.621), not as amended by ZATCA, that the percentage of revenues in VAT returns for that Hijri year was estimated at (90%), while it should be (70%), and that the net profit was less than (10%).

Having presented the statement of claim to Defendant, it provided a Note including that its action was taken in accordance with provisions of Article (13) of Implementing Regulation for Zakat Collection and that it calculated zakat base based on revenues disclosed by Plaintiff in VAT returns.



On,.././..., the Department held an e-session to consider the Case. Neither Plaintiff nor its Representative attended the session despite being duly notified of the session date. While, (holder of National ID No...), attended the session in his capacity as a Representative of Defendant/ZATCA, pursuant to the Authorization No. (...) dated.././.... , issued by ZATCA Deputy Governor for Legal Affairs. When asking Defendant Representative about Plaintiff claim, he adhered to Defendant responses previously submitted to General Secretariat of Zakat, Tax, and Customs Committees. Having asked Defendant Representative if he had any other statements, he replied “no”. Therefore, the Department decided to close pleadings and deliberation.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form, Plaintiff filed this case petitioning for cancellation of ZATCA Decision with regard to the zakat assessment for the year 1439 AH. Since this dispute is a zakat dispute, it falls within the jurisdiction of Committee for Determination of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a person with capacity and within the period prescribed by Law, the Department decided to accept the Case in form.

On merits, having reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment for the year 1439 AH issued by Defendant. Plaintiff claimed that revenues recognized in VAT returns were estimated at (SAR 9,027.621), not as amended by ZATCA. While Defendant argued that it had calculated the zakat base based on VAT returns in accordance with Article (13.6) of Implementing Regulation for Zakat Collection issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH, which stipulates that: “6. Estimate zakat base consists of the following unless Zakat Payer’s declaration shows a larger base: A. Working capital shall be determined by any available means, whether through the commercial register, company contracts and articles of association or any other supporting document. If it turns out that the actual working capital differs from the same, ZATCA shall be entitled to determine it in proportion to the volume of activity and the number of capital cycles according to industry, trade or business norms. B. Net profits realized during year, which are estimated at a minimum of 15% of total revenues.” Based on the above and when reviewing the commercial register, it turned out that Plaintiff is engaged in the transportation activity, i.e., Plaintiff does not belong to categories for which the Regulations specified a profit percentage; therefore, so ZATCA shall have the right to estimate the business activity profit. With regard to Plaintiff claim that the VAT returns for the Gregorian year corresponding to the Hijri year are not valid, Plaintiff failed to provide any documents proving the validity of the same. Accordingly, the Department decided to reject Plaintiff objection.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Reject Plaintiff objection with regard to the estimate zakat assessment for the year 1439 A.H.



This Decision was delivered in the presence of both litigants, and shall be deemed final and enforceable as per 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZD-2022-752
Case No. Z-44640-2021

Key words:

Zakat - Estimate - VAT Returns - VAT Sales - Categories that are Subject to Rules of Calculating for Estimate Taxpayers - Sales Disclosed in VAT Returns - Estimating Capital- Estimating Profits

Abstract

Zakat Payer instituted this case requesting cancellation of ZATCA Decision with regard to the estimate zakat assessment for the year 1441AH. Zakat Payer mentioned that ZATCA estimated zakat base based on VAT returns and ignored expenses. The Department found that Defendant applied the prescribed equation to the sales disclosed in VAT returns provided by Zakat Payer. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summed up as follows: Mr..... (holder of national ID No.....), in his capacity as owner of (....) Institution, (C.R No.....), filed an objection to the zakat assessment for the year 1441 A.H issued by ZATCA, claiming that ZATCA estimated zakat base based on VAT returns and ignored expenses.

Having presented the statement of claim to Defendant, it responded with a Note indicating that its Decision was taken in accordance with Articles (3) & (4) of Rules of Calculating Zakat for Estimate Taxpayers issued by Minister of Finance Resolution No. (852) dated 28/02/1441 AH, as zakat base was calculated based on VAT sales.

On, .../ .. /.... , the Department held an e-session to consider the Case. Neither Plaintiff nor its Representative attended the session despite being duly notified of the session date. Mr. (.....) (National ID No.), in his capacity as Defendant/ZATCA Representative by virtue of Authorization No.dated .././..... AD issued by ZATCA Deputy Governor for Legal Affairs. When asking Defendant Representative about Plaintiff Case, he adhered to Defendant responses previously submitted to General Secretariat of Zakat, Tax, and Customs Committees. When asking Defendant Representative if he had



any further statements, he replied “no”. Therefore, the Department decided to close the pleadings and proceed with deliberation.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form, Plaintiff filed this case petitioning for cancellation of ZATCA Decision with regard to the zakat assessment for the year 1441 A.H. Since this dispute is a zakat dispute, it falls within the jurisdiction of Committee for Determination of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a person with capacity and within the period prescribed by Law, the Department decided to accept the Case in form.

On merits, having reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment for the year 1441 AH issued by Defendant. Plaintiff mentioned that ZATCA estimated zakat base based on VAT returns and ignored expenses. On the other hand, Defendant argued that it had calculated zakat base based on VAT sales, in accordance with Paragraph (Third) of Rules of Calculating Zakat for Estimate Taxpayers issued by Minister of Finance Resolution No. (852) dated 28/02/1441 AH, which provide that: “The Zakat base of Zakat Payer subject to these rules shall be evaluated by identifying capital that is appropriate to the size of Zakat Payer’s activity, according to the following equation: $(\text{Sales}/8) + (\text{Sales} \times 15\%)$, and not less than capital set forth in the commercial register, required licenses, or other documents enabling the Authority from quantifying the capital.” Based on the above and since Plaintiff belongs to categories that are subject to Rules of Calculating Zakat for Estimate Taxpayers, Defendant had the right to collect information and calculate zakat base using the estimate method based on such Rules, which stipulate that profits of Plaintiff activity are estimated at (15%) of the sales declared in the VAT returns and estimating capital by dividing such sales by (8). Having reviewed the zakat assessment under dispute, the Department found that Defendant applied the abovementioned equation to the sales declared in the VAT returns submitted by Plaintiff. As for Plaintiff claim requesting making the estimate assessment based on expenses, it is worth noting that making an estimate assessment based on the profit percentage of (15%) means that Plaintiff estimate expenses constitute (85%) of its revenues. Accordingly, the Department decided to reject Plaintiff objection.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Reject Plaintiff objection with regard to the estimate zakat assessment for the year 1441 A.H.

This Decision was delivered in the presence of both litigants, and shall be deemed final and enforceable as per 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.



Key words:

Zakat - Estimate - VAT Returns - Financial Statements - Calculating Zakat Base Based on VAT Sales - Categories that are Subject to Rules of calculating Estimate Taxpayers - Estimating Capital

Abstract

Zakat Payer instituted this case requesting cancellation ZATCA Decision with regard to the estimate zakat assessment for the year 1441 AH. Zakat Payer mentioned that ZATCA made its assessment based on VAT returns and ignored obligations and expenses incurred by the institution and business activity. It is also worth noting that Zakat Payer belongs to categories that are subject to Rules of calculating Estimate Taxpayers. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are summarized as follows: Plaintiff/(.....), (TIN No.....) filed an objection to the estimate zakat assessment for the year 1441 AH issued by ZATCA. Zakat Payer mentioned that ZATCA made its assessment based on VAT returns and ignored obligations and expenses incurred by the institution and business activity. Since Zakat Payer belongs to categories that are subject to Rules of calculating Estimate Taxpayers, the Department decided to reject Zakat Payer objection.

Having presented the statement of claim to Defendant, it responded with a Note included that its Decision was taken in accordance with provisions of Implementing Regulation for Zakat Collection of 1438 AH and Rules of calculating Estimate Taxpayers, and mentioned that it calculated zakat base based on VAT sales.

On,/..../..., the Department held an e-session to consider the case. The session was attended by Plaintiff personally, and (.....) (holder of national ID No.), in his capacity as Defendant/ZATCA Representative by virtue of Authorization No.dated/..../..... AD issued by ZATCA Deputy Governor for Legal Affairs. Since the Department decided to accept the Case in form, Defendant Representative requested time



to submit its reply on the merits, and the Department accepted its request provided that its Reply shall be submitted no later than dated .././.... The Department also set a deadline for Plaintiff to respond to Defendant Reply no later than dated .././.... Accordingly, the Department decided to adjourn hearing of this Case for ..., .././.... On, .././..., the Department held an e-session to consider the case. The session was attended by Plaintiff personally, and (....) (holder of National ID No. ...), in his capacity as the Defendant/ZATCA Representative by virtue of Authorization No. (....) dated .././..., issued by the Deputy Governor of ZATCA for Legal Affairs. Having asked Plaintiff about his claim, he maintained the statements contained in his statement of claims previously filed with General Secretariat of Zakat, Tax and Customs Committees. Having asked Defendant Representative regarding his reply, he replied that he maintained Defendant statements presented earlier to General Secretariat of Zakat, Tax and Customs Committees. Having asked both litigants if they had any other statements, they responded that they are satisfied with their earlier submissions presented to the Department. Consequently, the Department decided to close the pleadings and deliberation.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In form, Plaintiff filed this case petitioning for cancellation of ZATCA Decision with regard to the zakat assessment for the year 1441 A.H. Since this dispute is a zakat dispute, it falls within the jurisdiction of Committee for Determination of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a person with capacity and within the period prescribed by Law, the Department decided to accept the Case in form.

On merits, having reviewed papers and documents contained in Case file along with requests, defenses, and arguments presented by both litigants, the Department found that the dispute happened as a result of the estimate zakat assessment for the year 1441 AH issued by Defendant. Plaintiff mentioned that ZATCA made its assessment based on VAT returns and ignored obligations and expenses incurred by the institution and business activity. Plaintiff also claimed that Defendant ignored the financial statements uploaded to the Ministry of Commerce platform. While Defendant argued that it had calculated zakat base based on VAT sales, in accordance with Paragraph (Third) of Rules of Calculating Zakat for Estimate Taxpayers issued by Minister of Finance Resolution No. (852) dated 28/02/1441 AH, which provide that: "Zakat base for a Zakat Payer subject to these rules is estimated by determining a capital that is commensurate with the size of Zakat Payer's activity according to the following equation: $(\text{Sales}/8) + (\text{Sales} \times 15\%)$, and not less than capital set forth in the commercial register, required licenses, or other documents enabling the Authority from quantifying the capital." Based on the above, after reviewing the Case file along with documents and defenses submitted by litigants, and since Plaintiff belongs to categories that are subject to Rules of Calculating Zakat for Estimate Taxpayers, Defendant had the right to collect information and calculate zakat base using the estimate method based on such Rules, which stipulate that profits of Plaintiff activity are estimated at (15%) of the sales declared in the VAT returns. Therefore, Defendant concluded sales based on available evidences, such as (commercial register, employee number, VAT returns, and purchases) and estimated capital by dividing such



sales by (8). When reviewed the zakat assessment under dispute, the Department found that Defendant applied the abovementioned equation. Therefore, the Department decided to reject Plaintiff objection.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Reject Plaintiff objection to the estimate zakat assessment for the year 1441 A.H.

This Decision was delivered in the presence of both litigants, and shall be deemed final and enforceable as per 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZD-2022-623
Case No. Z-50298-2021

Key words:

Zakat – Estimated Assessment – Calculation of Zakat Base Based on VAT Sales – Categories Governed by Rules of Calculating Zakat for Estimate Taxpayers (Previously “Rules for Calculating Zakat on a Deemed Basis”) – Profit Estimation – Sales Declared in VAT Returns – Revenues

Abstract

Plaintiff (Zakat Payer) filed this Case to abolish Defendant’s (ZATCA) Decision, as it included Plaintiff’s objection to Defendant’s Decision regarding the Estimated Zakat Assessment of 1441 AH, wherein Plaintiff stated that the method of calculation of Zakat is applied to contracting and trading activities, as these activities have an open profit margin, considering that the purchase and sale prices are not specified, unlike Plaintiff’s current activity, as its main activity is gas distribution, which is a service activity more than it is profitable.

The Department found that Defendant has applied the above equation to the sales declared in VAT Returns, which renders Defendant’s procedure valid and sound. Therefore, the Department dismisses objection filed by Zakat Payer.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

Facts of the Case are summarized as follows: Company, TIN No.; has filed a statement of claim objecting to the Decision issued by Zakat, Tax, and Customs Authority (“ZATCA”) regarding the Estimated Zakat Assessment of 1441 AH, wherein Plaintiff stated the method of calculation of Zakat is applied to contracting and trading activities, as these activities have an open profit margin, considering that the purchase and sale prices are not specified, unlike Plaintiff’s current activity, as its main activity is gas distribution, which is a service activity more than it is profitable. In addition, Plaintiff stated that the ratio of its total profit is 13.2% only, before deducting all expenses.

Having presented the statement of claim to Defendant, it answered with a memorandum stating that: “Defendant Decision is valid and sound, as it came in compliance with Items (Third) and (Fourth) of Rules of Calculating Zakat for Estimate Taxpayers (Previously



“Rules for Calculating Zakat on a Deemed Basis”) issued by Minister of Finance’s Decision No. (852) dated 28/02/1441 AH, as the Zakat Base was calculated based on VAT sales amounting to (SAR 4,012,249).

On, .../.../..., corresponding to .../.../..., the Department held its session remotely 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 .../.../..., issued by Deputy Governor for Legal Affairs and Compliance. Having asked Plaintiff regarding his Case, he maintained his 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 to the Case whether they had further statements, they maintained their statements contained in memoranda submitted to the Department. Accordingly, the Department decided to close pleadings for deliberation.

Grounds:

Having perused the Zakat Law promulgated by Royal Order No. (17/28/577) of 14/03/1376 AH and its Implementing Regulations issued by Minister of Finance’s Decision No. (2082) of 01/06/1438 AH, as amended, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance’s Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, as well as other relevant laws and regulations.

In Form: Since Plaintiff filed the Case to abolish Defendant’s Decision regarding Zakat Assessment of 1441 AH, and since this dispute is a Zakat dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Decree No. (26040) of 21/04/1441 AH, and since the Case was filed by a person with capacity, and within the period prescribed by Law, it is then accepted in form.

On Merits: Having taken cognizance of documents included in Case file, requests, defenses, and pleas raised by parties thereto, the Department found that the dispute lies in Plaintiff’s objection to Defendant’s Decision regarding issuance of Zakat Assessment of 1441 AH, as Plaintiff stated that the method of calculation of Zakat applies to contracting and trading activities, and that the ratio of its total profit is 13.2% only, before deducting all expenses, while Defendant argued that it calculated the Zakat based on VAT sales amounting to (SAR 4,012,249).

The Department also found that; since Item (Third) of Rules of Calculating Zakat for Estimate Taxpayers (Previously “Rules for Calculating Zakat on a Deemed Basis”) issued by Minister of Finance’s Decision No. (852) dated 28/02/1441 AH stipulated: “The Zakat Base of Zakat Payer subject to these rules shall be evaluated by identifying capital that is appropriate to the size of Zakat Payer’s activity, according to the following equation: $[(\text{Sales}/8) + (\text{Sales} \times 15\%)]$, and not less than capital set forth in the commercial registration, required license or other documents enabling the Authority from quantifying the capital.”; and since Plaintiff falls within categories subject to the Rules of Calculating Zakat for Estimate Taxpayers (Previously “Rules for Calculating Zakat on a Deemed Basis”); hence, Defendant has the right to collect information and calculate the Zakat on an estimated basis pursuant to these Rules stipulating that the profits of Plaintiff’s activity are estimated at a rate of (15%) on the sales declared in VAT Returns, while the capital is estimated by dividing those sales by (8); and since the Estimated Assessment in question,



upon reviewing by the Department, indicated that Defendant has applied the above equation to the sales declared in VAT Returns, which renders Defendant's procedure valid and sound. As for Plaintiff's request to consider the expenses upon making the Estimated Assessment; by charging Plaintiff on an estimated basis with a profit rate of (15%), it means that its estimated expenses represent (85%) of its revenues; Therefore, the Department satisfies to dismiss Plaintiff's objection.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Reject Plaintiff objection with regard to the estimate zakat assessment for the year 1441 A.H.

This Decision was delivered in the presence of both litigants, and shall be deemed final and enforceable as per 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZD-2022-542
Case No. Z-58987-2021

Key words:

Zakat – Estimated Assessment – Commercial Registration Capital – VAT Sales – Non-Binding Categories to Keep Commercial and Regular Books and Records – Estimated Profit Rate

Abstract

Plaintiff (Zakat Payer) filed this Case to abolish Defendant's (ZATCA) Decision, as it included Plaintiff's objection to Defendant's Decision regarding the Estimated Zakat Assessment of 1439 AH, wherein Plaintiff stated that Defendant has made the Assessment in the amount of (SAR 17,963.7).

The Department found that Plaintiff falls within the categories that are not obligated to keep regular books and records, and that Defendant has applied the estimated profit rate of (15%), which renders Defendant's procedure valid and sound.

The Department decided to dismiss Plaintiff's objection.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- Paragraph (6) of Article (13) [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

Facts of the Case are summarized as follows: Company, TIN No.; has filed a statement of claim objecting to the Decision issued by Zakat, Tax, and Customs Authority ("ZATCA") regarding the Zakat Assessment of 1439 AH, wherein Plaintiff stated that Defendant has made the Assessment in the amount of (SAR 17,963.7). Having presented the statement of claim to Defendant, it answered as follows: "Defendant Decision is valid and sound, as it came in compliance with Article (13) of Implementing Regulations for the Collection of Zakat of 1438 AH, wherein it charged Plaintiff with the said amount for the capital of commercial registrations in addition to VAT sales."

On, .../.../..., corresponding to .../.../..., the Department held its session remotely to consider the Case filed by Plaintiff against Defendant, wherein Mr., holder of National ID No., appeared in his capacity as Defendant's (ZATCA) Representative, by virtue of Authorization No. dated .../.../..., issued by Deputy Governor for Legal Affairs. Neither Plaintiff nor its Representative appeared at the session,



despite being legally notified of the session date. Having asked Defendant's Representative regarding Plaintiff's Case, he maintained Defendant's statements contained in the Reply previously submitted to General Secretariat of Tax Committees. Having asked Defendant's Representative whether he had further statements, he responded with denial. Accordingly, the Department decided to close pleadings for deliberation.

Grounds:

Having perused the Zakat Law promulgated by Royal Order No. (17/28/577) of 14/03/1376 AH and its Implementing Regulations issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH, as amended, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, as well as other relevant laws and regulations.

In Form: Since Plaintiff filed the Case to abolish Defendant's Decision regarding Zakat Assessment of 1439 AH, and since this dispute is a Zakat dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Decree No. (26040) of 21/04/1441 AH, and since the Case was filed by a person with capacity, and within the period prescribed by Law, it is then accepted in form.

On Merits: Having taken cognizance of documents included in Case file, requests, defenses, and pleas raised by parties thereto, the Department found that the dispute lies in Plaintiff's objection to Defendant's Decision regarding issuance of the Estimated Zakat Assessment of 1439 AH in an amount of (SAR 17,963.7), while Defendant argued that it charged Plaintiff with the said amount for the capital of commercial registrations in addition to VAT sales.

The Department also found that; since Article (13.6) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) of 01/06/1438 AH stipulated: "Estimated Zakat Base consists of the following unless Zakat Payer's Declaration shows a Larger Zakat Base: (a) The working capital, determined by any possible means, whether from the commercial registration, the company's contracts and memorandum of association, or any other supporting document. If the working capital differs from those documents, the Authority may determine the capital in proportion to the size of activity and the number of capital cycles according to custom in each industry, trade, or business; (b) Net profits realized during the year, which are estimated at a minimum of (15%) of total revenues....."; and since Plaintiff falls within the categories that are not obligated to keep regular books and records; hence, Defendant has the right to collect information and calculate the Zakat on an estimated basis according to the information that reflects the nature of Plaintiff's activity; and since Defendant has applied the estimated profit rate of (15%), which renders Defendant's procedure valid and sound; Therefore, the Department satisfies to dismiss Plaintiff's objection.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss Plaintiff's objection to the Estimated Zakat Assessment of 1439 AH in question. This Decision was delivered in the presence of both litigants, and shall be deemed final and enforceable as per 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.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IZD-2022-733
Case No. ZI-2021-40427

Key words:

Zakat – Estimated Assessment – Calculation of Zakat Based on Commercial Registration Capital – Cancellation of Commercial Registration – Expiration of Commercial Registration – Cancellation of TIN Number

Abstract

Plaintiff (Zakat Payer) filed this Case to abolish Defendant's (ZATCA) Decision, as it included Plaintiff's objection to Defendant's Decision regarding the Estimated Zakat Assessment of 1440 AH, wherein Plaintiff stated that it did not practice the activity and request abolishment of Defendant's Decision.

The Department found that the documents submitted by Plaintiff were insufficient to establish the lack of practice of the activity, as it failed to provide evidence of the cancellation of the commercial registration.

Instruments:

[Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)

[Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)

[Paragraph \(6/a\) of Article \(13\) of of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

Facts of the Case are summarized as follows: Mr. holder of National ID No., in his capacity as the owner of Company, C.R. No.; has filed a statement of claim objecting to the Decision issued by Zakat, Tax, and Customs Authority ("ZATCA") regarding the Zakat Assessment of 1440 AH, wherein Plaintiff stated that it did not practice the activity and request abolishment of Defendant's Decision. Having presented the statement of claim to Defendant, it answered with a memorandum stating that: "Defendant Decision is valid and sound, as it came in compliance with Items (Third) and (Fourth) of Rules of Calculating Zakat for Estimate Taxpayers (Previously "Rules for Calculating Zakat on a Deemed Basis") issued by Minster of Finance's Decision No. (852) of 28/02/1441 AH. In addition, Defendant stated that issued its Decision by exercising its authority vested by the Law, as it calculated the Zakat Base based on the capital of commercial registrations.

On Thursday 31/03/2022 AD, the Department held its session remotely 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 .../.../..., issued by Deputy Governor for Legal Affairs and Compliance. Having asked Plaintiff regarding his Case, he maintained his 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 to the Case whether they had further statements, they maintained their statements contained in memoranda submitted to the Department. Accordingly, the Department decided to close pleadings for deliberation.

Grounds:

Having perused the Zakat Law promulgated by Royal Order No. (17/28/577) of 14/03/1376 AH and its Implementing Regulations issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH, as amended, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, as well as other relevant laws and regulations.

In Form: Since Plaintiff filed the Case to abolish Defendant's Decision regarding Zakat Assessment of 1440 AH, and since this dispute is a Zakat dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Decree No. (26040) of 21/04/1441 AH, and since the Case was filed by a person with capacity, and within the period prescribed by Law, it is then accepted in form. **On Merits:** Having taken cognizance of documents included in Case file, requests, defenses, and pleas raised by parties thereto, the Department found that the dispute lies in Plaintiff's objection to Defendant's Decision regarding issuance of the Zakat Assessment of 1440 AH, wherein Plaintiff claimed that it did not practice the activity, while Defendant argued that it calculated the Zakat Base based on the capital of commercial registrations.

The Department also found that; since Article (13.6/A) of Implementing Regulations for the Collection of Zakat of 1438 AH stipulated: "Estimated Zakat Base consists of the following unless Zakat Payer's Declaration shows a Larger Zakat Base: (a) The working capital, determined by any possible means, whether from the commercial registration, the company's contracts and memorandum of association, or any other supporting document. If the working capital differs from those documents, the Authority may determine the capital in proportion to the size of activity and the number of capital cycles according to custom in each industry, trade, or business"; and since Plaintiff has submitted the commercial registration that expired on 24/02/1437 AH; and since the documents submitted by Plaintiff were insufficient to establish the lack of practice of the activity, as it failed to provide evidence of the cancellation of the commercial registration, since the expiration of the commercial registration does not necessarily entail cessation of Plaintiff's activity; and since Plaintiff did not inform Defendant of the cessation of its activity and request cancellation of the TIN Number with Defendant; Therefore, the Department satisfies to dismiss Plaintiff's objection.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss Plaintiff's objection to the Estimated Zakat Assessment in question.



This Decision was delivered in the presence of both litigants, and shall be deemed final and enforceable as per Article (42) of Tax Dispute and Violation Committee Procedures.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IFR-2022-1085
Case No. Z-44668-2021

Key words:

Zakat – Accounts – Revenue Difference Between Financial Statements and VAT – Non-Consideration of Amounts Paid from Assessment Value with Zakat Declaration

Abstract

Plaintiff (Zakat Payer) filed this Case to abolish Defendant's (ZATCA) Decision regarding the Zakat Assessment of 2018 AD, as it included Plaintiff's objection to Defendant's Decision regarding items (Revenue Difference Between Financial Statements and VAT) and (Non-Consideration of Amounts Paid from the Assessment Value with Zakat Declaration).

The Department found that:

As for item (Revenue Difference Between Financial Statements and VAT); the dispute between parties to the Case has been resolved with Defendant accepting Plaintiff's objection, in accordance with its memorandum.

As for item (Non-Consideration of Amounts Paid from the Assessment Value with Zakat Declaration); Plaintiff has failed to submit proof of the payments claimed to be deducted, and that the amounts paid are deducted from Assessment when their payment is proven. The Department decided to establish resolution of dispute on item (Revenue Difference Between Financial Statements and VAT), and dismiss Plaintiff's objection to item (Non-Consideration of Amounts Paid from the Assessment Value with Zakat Declaration).

Instruments:

- [Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Article \(70.1\) of Law of Civil Procedures promulgated by Royal Decree No. \(M/1\) of 22/01/1435 AH.](#)
- [Article \(54.1\), Article \(43\), and Article \(20.3\) of Implementing Regulations for the Collection of Zakat issued by Ministry of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)
[https://zatca.gov.sa/ar/RulesRegulations/Taxes/Documents/القرارات_واللائحة.PDF.](https://zatca.gov.sa/ar/RulesRegulations/Taxes/Documents/القرارات_واللائحة.PDF)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)

Facts:

Facts of the Case are summarized as follows: Mr., holder of National ID No., in his capacity as Plaintiff's (..... Company, C.R. No.) Legal



Representative, by virtue of its Articles of Association; has filed a statement of claim objecting to the Decision issued by Zakat, Tax, and Customs Authority (ZATCA) regarding Zakat Assessment of 2018 AD.

Having presented the statement of claim to Defendant, it answered as follows:

As for item (Revenue Difference Between Financial Statements and VAT), Defendant made the Assessment by asking Plaintiff on the apparent difference in terms of revenues in the financial statements and the amount of revenues included in VAT Returns, and adopted the amounts stated by Plaintiff in its Declaration regarding revenues of (SAR 8,985,546). In addition, Defendant, having reviewed the financial statement, verified the existence of returns, and validity of Plaintiff's procedure by adjusting the depreciation only, affirms that the dispute with Plaintiff has been resolved on the item in question for lack of addition of the same in the Zakat Assessment. Accordingly, there is no valid Grounds for filing the Case regarding the item in question. Based on the foregoing, Defendant request that Plaintiff's Case be dismissed, while preserving its right to present further responses and clarifications until pleadings closure.

On, .../.../..., corresponding to .../.../..., the Department held its session remotely to consider the Case filed by Plaintiff against Defendant, wherein Ms., holder of National ID No., appeared in her capacity as Defendant's (ZATCA) Representative, by virtue of Authorization No. dated .../.../..., issued by Deputy Governor for Legal Affairs. Neither Plaintiff nor its Attorney appeared at the session, despite being legally notified of the session date. Having asked Defendant's Representative regarding Plaintiff's Case, she maintained the statements previously contained in Defendant's Rejoinder submitted to General Secretariat of Tax Committees, and requested the Department not to accept any new documents that have not been submitted to Defendant during the examination and objection stage. Having asked Defendant's Representative whether she had further statements, she responded with denial. Accordingly, the Department decided to close pleadings for deliberation.

Grounds:

Having perused the Zakat Law promulgated by Royal Order No. (17/28/577) of 14/03/1376 AH and its Implementing Regulations issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH, as amended, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, as well as other relevant laws and regulations.

In Form: Since Plaintiff filed the Case to abolish Defendant's Decision regarding Zakat Assessment of 2018 AD, and since this dispute is a Zakat dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Decree No. (26040) of 21/04/1441 AH, and since the Case was filed by a person with capacity, and within the period prescribed by Law, it is then accepted in form. **On Merits:** Having taken cognizance of documents included in Case file, requests, defenses, and pleas raised by parties thereto, the Department found that the dispute lies in Plaintiff's objection to Defendant's Decision regarding issuance of Zakat Assessment of 2018 AD, which included the following:

First: Item (Revenue Difference Between Financial Statements and VAT), The Department, having taken cognizance of the Case file, found that; since Article (70) of Law of Civil Procedures promulgated by Royal Decree No. (M/1) of 22/01/1435 AH stipulated: "Litigants may, at any stage of the Case, ask the court to enter agreed-upon acknowledgment, settlement, or the like in the Case record, and the court shall issue a



deed to that effect”; and since Article (70.1) of Implementing Regulations of Law of Civil Procedures, issued by the Minister of Justice’s Decision No. (39933) of 19/05/1435 AH stipulated: “If an agreement is reached prior to entering the Case, the text of the Case and the answer shall be entered prior to entering such agreement, provided that the original Case falls within the jurisdiction of the circuit, even if the text of the agreement falls within the jurisdiction of another court or circuit and the object of the Case or portion thereof is agreed upon.”; and since the dispute between parties to the Case has been resolved with Defendant accepting Plaintiff’s objection, in accordance with its memorandum dated 31/05/2012 AD, in which it stated: “Defendant, having reviewed the financial statement, verified the existence of returns, and validity of Plaintiff’s procedure by adjusting the depreciation only, affirms that the dispute with Plaintiff has been resolved on the item in question for lack of addition of the same in the Zakat Assessment. Accordingly, there is no valid Grounds for filing the Case regarding the item in question.”

Second: Item (Non-Consideration of Amounts Paid from the Assessment Value with Zakat Declaration), which includes Plaintiff objection to Defendant’s Decision regarding the non-consideration of amounts paid from the Assessment value with Zakat Declaration of (SAR 25,581) of 2018, as Plaintiff requested that the said amount must be deducted due to lack of response from Defendant in its memorandum.

The Department, having taken cognizance of the Case file, found that; since Article (20.3) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) of 01/06/1438 AH stipulated:

“The burden of prove of correctness of information in Zakat Payer’s Declaration regarding items and any other data rests on Zakat Payer. If Zakat Payer fails to prove correctness of the items in its Declaration, the Authority may disapprove the item whose correctness has not been proven by Zakat Payer or make an Estimated Assessment according to the Authority’s opinion based on relevant circumstances and facts and available information.”; and since Plaintiff has failed to submit proof of the payments claimed to be deducted; and since the amounts paid are deducted from Assessment when their payment is proven; Therefore, the Department satisfies to dismiss Plaintiff’s objection.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

First: Establish resolution of dispute between Plaintiff (..... Company, TIN No.) and Defendant (ZATCA) on item (Revenue Difference Between Financial Statements and VAT), by Defendant accepting Plaintiff’s requests in this regard.

Second: Dismiss Plaintiff’s Plaintiff (..... Company, TIN No.) objection to Defendant’ Decision (ZATCA) Decision regarding item (Non-Consideration of Amounts Paid from the Assessment Value with Zakat Declaration) in question.

Appellate Committee:

Appeal Committee ruled to uphold the Decision.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IFR-2022-508

Case No. 19498-2020-Z

Key words:

Zakat – Accounts – Long-Term Loans – Accrued Expenses Did Not Complete Zakat Year

Abstract

Plaintiff (Zakat Payer) filed this Case to abolish Defendant's (ZATCA) Decision regarding Zakat Assessment of 2017 AD, as it included Plaintiff's objection to Defendant's Decision regarding items (Long-Term Loans), and (Accrued Expenses Did Not Complete Zakat Year).

The Department found that:

As for item (Long-Term Loans); Plaintiff has failed to submit Zakat Declaration of Company, and that loans are considered a source of financing.

As for item (Accrued Expenses Did Not Complete Zakat Year); Plaintiff has submitted plaintiff submitted the detailed activity of item (Accrued Expenses of 2016), which cannot be taken into account, due to the mismatch of the balance of beginning of Zakat period balance with the audited financial statements of 2016.

The Department decided to dismiss Plaintiff's objection.

Instruments:

- Article (20.1) of Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. (26040) of 21/04/1441 AH. <https://gstc.gov.sa/ar/DocumentsLb/Regulations/Documents/قواعد عمل لجان الفصل في المخالفات والمنازعات الضريبية-أم القرى-ar.pdf>
- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- Article (55) and Article (56) of [Law of Civil Procedures promulgated by Royal Decree No. \(M/1\) of 22/01/1435 AH.](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- Paragraph (5/First) of Article (4) and Article (20.3) of Implementing Regulations for the Collection of Zakat issued by Ministry of Finance's Decision No. (2082) of 01/06/1438 AH. <https://zatca.gov.sa/ar/RulesRegulations/Taxes/Documents/القرار الوزاري واللائحة.pdf>
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)

Facts:

Facts of the Case are summarized as follows: Mr., holder of National ID No., in his capacity as Plaintiff's (..... Company, C.R. No.) Legal Representative, by virtue of its Articles of Association; has filed a statement of claim objecting to the Decision issued by Zakat, Tax, and Customs Authority (ZATCA) regarding Zakat Assessment of 2016 AD.



Having presented the statement of claim to Defendant, it answered with the following: “The Case is inadmissible in form, due to the submission of the objection by a chartered accountant without formal authorization or power of Attorney from Plaintiff, based on Article (22) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and Article (8) of Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. (26040) of 21/04/1441 AH.”

Defendant also submitted a supplementary memorandum, in which it answered, regarding the merits of the Case, as follows: First: Item (Long-Term Loans): Defendant has added the item in question due to the completion of Zakat Year, as it found that there were lands mortgaged to “Amlak Finance” in exchange for a loan that was used to purchase those lands. In addition, such loan was shown in the financial statements of “Al Madar Finance”, while and the value of the lands was deducted from the Zakat Base. Accordingly, Defendant adopted the loan activity pursuant to Article (4) Implementing Regulations for the Collection of Zakat. Second: Item (Accrued Expenses): Defendant has added the item in question due to the completion of Zakat Year pursuant to Article (4) Implementing Regulations for the Collection of Zakat. Based on the foregoing, Defendant requests that Plaintiff’s Case be dismissed, while preserving its right to present further responses and clarifications until pleadings closure.

On, .../.../..., corresponding to .../.../..., the Department held its session remotely to consider the Case filed by Plaintiff against Defendant, wherein Mr., holder of National ID No., appeared in his capacity as Defendant’s (ZATCA) Representative, by virtue of Authorization No. dated .../.../..., issued by Deputy Governor for Legal Affairs. Neither Plaintiff nor its Representative appeared at the session, despite being legally notified of the session date. Having asked Defendant’s Representative regarding Plaintiff’s Case, he maintained the statements contained in Defendant’s Rejoinder submitted to General Secretariat of Tax Committees, and requested the Department not to accept any new documents that have not been submitted to Defendant during the examination and objection stage. Having asked Defendant’s Representative whether he had further statements, he responded with denial. Accordingly, the Department decided to close pleadings for deliberation.

Grounds:

Having perused the Zakat Law promulgated by Royal Order No. (17/28/577) of 14/03/1376 AH and its Implementing Regulations issued by Minister of Finance’s Decision No. (2082) of 01/06/1438 AH, as amended, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance’s Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, as well as other relevant laws and regulations.

In Form: Since Plaintiff filed the Case to abolish Defendant’s Decision regarding Zakat Assessment of 2016 AD, and since this dispute is a Zakat dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Decree No. (26040) of 21/04/1441 AH, and since the Case was filed by a person with capacity, and within the period prescribed by Law, it is then accepted in form. On Merits: Having taken cognizance of documents included in Case file, requests, defenses, and pleas raised by parties thereto, the Department found that the dispute lies in Plaintiff’s objection to Defendant’s Decision regarding issuance of Zakat Assessment of 2016 AD, which included the following:

First: Item (Long-Term Loans), which includes Plaintiff objection to Defendant’s Decision regarding the addition of the item in question to Zakat Base of 2016, as Plaintiff



stated that the item represents a loan provided to associate company, as Company is owned by the owners of Company as shown in the financial statements. In addition, Plaintiff stated that Company obtained a loan and delivered the same in full to Company for the purpose of purchasing land, which was added to the accounts of Company and deducted from its Zakat Base, while Defendant argued that its procedure came in compliance with the provisions of Implementing Regulations for the Collection of Zakat, and for the completion of the item in question of the Zakat Year.

The Department, having taken cognizance of the Case file, found that; since Paragraph (5/First) of Article (4) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) of 01/06/1438 AH stipulated:

“The Zakat Base consists of all Zakat Payer’s funds subject to Zakat, including the following: 5. Government and commercial loans, as well as other similar sources of financing such as creditors, promissory notes, and overdraft accounts owed by Zakat Payer, which are handled as follows: (a) The remaining cash that has been saved or preserved; (b) Sources used for financing acquisition assets; and (c) Sources used for trade offers and has completed the Zakat Year.”; and since Article (20.3) of the same Implementing Regulations stipulated: “The burden of prove of correctness of information in Zakat Payer’s Declaration regarding items and any other data rests on Zakat Payer. If Zakat Payer fails to prove correctness of the items in its Declaration, the Authority may disapprove the item whose correctness has not been proven by Zakat Payer or make an Estimated Assessment according to the Authority’s opinion based on relevant circumstances and facts and available information.”; and since Plaintiff has submitted the financial statements for Company and Company, as well as a set of payment receipts provided by Company to Company; and since Plaintiff has failed to submit the Zakat Declaration of Company; and since loans are considered a source of financing; Therefore, the Department satisfies to dismiss Plaintiff’s objection.

Second: Item (Accrued Expenses), which includes Plaintiff objection to Defendant’s Decision regarding the addition of the item in question to Zakat Base of 2016, as Plaintiff stated that the item represents actual expenses supported by documents that has not completed the Zakat Year, while Defendant argued that its procedure came in compliance with the provisions of Implementing Regulations for the Collection of Zakat.

The Department, having taken cognizance of the Case file, found that; since Paragraph (5/First) of Article (4) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) of 01/06/1438 AH stipulated:

“The Zakat Base consists of all Zakat Payer’s funds subject to Zakat, including the following: 5. Government and commercial loans, as well as other similar sources of financing such as creditors, promissory notes, and overdraft accounts owed by Zakat Payer, which are handled as follows: (a) The remaining cash that has been saved or preserved; (b) Sources used for financing acquisition assets; and (c) Sources used for trade offers and has completed the Zakat Year.”; and since Plaintiff has submitted the detailed activity of the item in question that cannot be taken into account, due to the mismatch of the balance of beginning of Zakat period balance with the audited financial statements of 2016, as Plaintiff should have submitted an account activity derived from the accounting system that matches the audited financial statements to consider whether the amounts had completed the Zakat Year; Therefore, the Department satisfies to dismiss Plaintiff’s objection.

As for Plaintiff’s Representative failure to appear at the hearing despite being legally notified of its date, the Department found that; since of Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. (26040) of 21/04/1441 AH



stipulated: “If a Plaintiff fails to attend any hearing after being notified of the date set for consideration of the suit without an excuse acceptable to the circuit, the circuit must decide the suit if it is ripe for judgment.”; and since Article (56) of Law of Civil Procedures stipulated: “In the Cases provided for in Article 55 of this Law, if the defendant attends the hearing from which the plaintiff is absent, he may petition the court not to dismiss the case and to render a Decision on its merits; in which case, the court shall rule on such case and the judgment shall be considered in absentia with respect to the plaintiff.”; and since Plaintiff’s Representative has failed to provide an excuse justifying his absence from the hearing set for consideration of Plaintiff’s Case; and since the Department has concluded that the Case has become ripe for adjudication pursuant to the documents included in its file; Therefore, the Department satisfies to issue its Decision in the Case in Plaintiff’s presentia.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss Plaintiff’s (..... Company, TIN No.) objection to Defendant’s (ZATCA) Decision regarding the Zakat Assessment in question.

This Decision was delivered in presence of Parties. The Department has set the date of (Tuesday, 05/08/1443 AH) as the date for receipt of the Decision copy. 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.

Appellate Committee:

Appeal Committee ruled to uphold the Decision.



Committee for Determination of Tax Violations and Disputes

Third Circuit for Settling Income Tax Violations and Disputes In Riyadh

Decision No. IFR-2022-3614

Case No. 17161-2020-Z

Key words:

Zakat – Accounts – Fixed Assets Vendors (Advance Payments for Purchase of Fixed Assets) – Owner’s Withdrawals from Deferred Profits – Repeated Addition of an Amount to Zakat Base

Abstract

Plaintiff (Zakat Payer) filed this Case to abolish Defendant’s (ZATCA) Decision regarding Zakat Assessment of 2018 AD, as it included Plaintiff’s objection to Defendant’s Decision regarding items (Fixed Assets Vendors), (Owner’s Withdrawals from Deferred Profits), and (Repeated Addition of an Amount to Zakat Base).

The Department found that:

As for item (Fixed Assets Vendors) regarding the non-deduction of the value of advance payments for the purchase of fixed assets from Zakat Base; Plaintiff has failed to provide evidence that these payments were part of the assets that it had deducted from Zakat Base; and that there was an ambiguity regarding the purpose of purchasing the said assets by Plaintiff. Also, Plaintiff, having reviewed its Zakat Declaration, has failed to submit the statements showing the details of the deductions from Zakat Base.

As for item (Owner’s Withdrawals from Deferred Profits) regarding the non-deduction of the owner’s withdrawals from deferred profits added to Zakat Base; Plaintiff has failed to provide evidence of the withdrawals from the profit account in question.

As for item (Repeated Addition of an Amount to Zakat Base); Plaintiff has submitted proof of payment of the Zakat due on the contested amount.

The Department decided to abolish Defendant’s (ZATCA) Decision regarding item (Repeated Addition of an Amount to Zakat Base), and dismiss Plaintiff’s other objections.

Instruments:

- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- Paragraphs (1/Second) and (8/First) of Article (4), and Article (20.3) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. (2082) dated 01/06/1438 AH.
[https://zatca.gov.sa/ar/RulesRegulations/Taxes/Documents/القرار الوزاري واللائحة.PDF](https://zatca.gov.sa/ar/RulesRegulations/Taxes/Documents/القرار%20الوزاري%20واللائحة.PDF)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance’s Decision No. \(1535\) of 11/06/1425 AH](#)

Facts:

Facts of the Case are summarized as follows: Mr., holder of National ID No., in his capacity as the Owner of (..... Institution/Group, C.R. No.



.....); has filed a statement of claim objecting to the Decision issued by Zakat, Tax, and Customs Authority (ZATCA) regarding Zakat Assessment of 2018 AD, which centers in the following: First: Item (Fixed Assets Vendors):

Plaintiff objects to Defendant's Decision for the non-deduction of the value of advance payments for the purchase of fixed assets from Zakat Base, by quoting Article (5/B) of Implementing Regulations for the Collection of Zakat, requesting deduction of the item in question from Zakat Base, as it represents advance payments for the purchase of fixed assets. Accordingly, Plaintiff requests that Defendant's procedure be abolished and the value of item in question be deducted from Zakat Base.

Second: Item (Owner's Withdrawals from Deferred Profits):

Plaintiff objects to Defendant's Decision for the non-deduction of the owner's withdrawals from the deferred profits added to Zakat Base, by quoting Article (4.8) of Implementing Regulations for the Collection of Zakat, requesting deduction of the item in question from Zakat Base, as it affects the calculation of the deferred profits added to Zakat Base. Accordingly, Plaintiff requests that Defendant's procedure be abolished and the value of item in question be deducted from the deferred profits added to Zakat Base.

Third: Item (Repeated Addition of Amount of "SAR 676,044" to Zakat Base):

Plaintiff objects to Defendant's Decision for the addition of the amount of (SAR 676,044) to Zakat Base, stating that it had paid the Zakat due on the said amount and submitted a copy of the payment receipt. Based on the foregoing, Plaintiff requests that Defendant's Decision be abolished.

Having presented the statement of claim to Defendant, it answered as follows:

First: Item (Fixed Assets Vendors):

Defendant has added the item in question on the Grounds that there are no corresponding assets, pursuant to Article (4/First) of Implementing Regulations for the Collection of Zakat. Accordingly, Defendant adheres to the validity and soundness of its procedure.

Second: Item (Owner's Withdrawals from Deferred Profits):

Defendant stated that the withdrawals have not been deducted during the year in question, as it found, having reviewed and studied Plaintiff's objection and statements attached to its objection, that Plaintiff did not submit the documents supporting the activity of "withdrawals". Accordingly, it rejected Plaintiff's objection pursuant to Article (20.3) of Implementing Regulations for the Collection of Zakat.

Third: Item (Repeated Addition of an Amount of "SAR 676,044" to Zakat Base):

Defendant, having referred to the statement of activity submitted by Plaintiff, found that there is an additional financing loan in the amount of (SAR 676,044) was added to Zakat Base pursuant to Article (4/First) of Implementing Regulations for the Collection of Zakat. Based on the foregoing, Defendant requests that Plaintiff's Case be dismissed, while preserving its right to present further responses and clarifications to Plaintiff's objection before the Committee.

On Wednesday, 29/02/1443 AH, the Department held its session remotely to consider the Case filed by Plaintiff against Defendant. Having called parties to the Case; Ms., holder of National ID No., appeared in her capacity as Defendant's (ZATCA) Representative, by virtue of Authorization No. dated .../.../..., issued by Deputy Governor for Legal Affairs. Neither Plaintiff nor its Representative appeared at the session, despite being legally notified of the session date. The Department, based on Article (20) of Tax Dispute and Violation Committee Procedures, and since neither Plaintiff nor its Representative appeared at the session, despite being legally notified of the session date, has unanimously decided to drop the Case.

On 14/10/2021 AD, Plaintiff submitted an excuse justifying his absence from the hearing.

On Tuesday, 15/06/1443 AH, the Department held its session remotely to consider the Case filed by Plaintiff against Defendant. Having called parties to the Case; 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 .../.../..., issued by Deputy Governor for Legal Affairs. Having asked Plaintiff's Attorney regarding the Case, he maintained his 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 Plaintiff's Attorney regarding his response to Defendant's Second Rejoinder, he requested a continuance for response. Accordingly, the Department decided to give Plaintiff's Attorney a continuance until the end of Tuesday, 25/01/2022 AD, to review and reply to Defendant's Rejoinder, and to postpone the continuation of the hearing of the Case to the session on Wednesday, 23/02/2022 AD. On Wednesday, 22/07/1443 AH, the Department held its session remotely to consider the Case filed by Plaintiff against Defendant. Having called parties to the Case; 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 .../.../..., issued by Deputy Governor for Legal Affairs. Having asked parties to the Case whether they had further statements, they responded with denial. Therefore, the Department decided to close pleadings for deliberation.

Grounds:

Having perused the Zakat Law promulgated by Royal Order No. (17/28/577) of 14/03/1376 AH and its Implementing Regulations issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH, as amended, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, as well as other relevant laws and regulations.

In Form: Since Plaintiff filed the Case to abolish Defendant's Decision regarding Zakat Assessment of 2018 AD, and since this dispute is a Zakat dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Decree No. (26040) of 21/04/1441 AH, and since the Case was filed by a person with capacity, and within the period prescribed by Law, it is then accepted in form.

On Merits: Having taken cognizance of documents included in Case file, requests, defenses, and pleas raised by parties thereto, the Department found that the dispute lies in Plaintiff's objection to Defendant's Decision regarding issuance of Zakat Assessment of 2018 AD, which included the following:

First: Item (Fixed Assets Vendors), which includes Plaintiff objection to Defendant's Decision regarding the non-deduction of the value of advance payments for the purchase of fixed assets from Zakat Base, while Defendant argued that it added the item in question on the Grounds that there are no corresponding assets, based on Article (4/First) of Implementing Regulations for the Collection of Zakat.

The Department, having taken cognizance of the Case file, found that; since Paragraph (1/Second) of Article (4) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) of 01/06/1438 AH stipulated: "The following items shall be deducted from the Zakat Base: 1. Fixed assets, including the following: The net value of fixed assets (acquired assets), any payments for the purchase of fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by



Zakat Payer, unless there is a legal impediment to transferring ownership, and that they are used in the activity.”; and since Article (20.3) of the same Implementing Regulations stipulated: “The burden of prove of correctness of information in Zakat Payer’s Declaration regarding items and any other data rests on Zakat Payer. If Zakat Payer fails to prove correctness of the items in its Declaration, the Authority may disapprove the item whose correctness has not been proven by Zakat Payer or make an Estimated Assessment according to the Authority’s opinion based on relevant circumstances and facts and available information.”; and since Plaintiff did not submit the financial statement for the year in question; and since Plaintiff’s activity, having reviewed its commercial registration by the Department, did not include trading in lands, but rather includes wholesale trade in cars, equipment, machinery, and spare parts; and since Plaintiff has submitted a statement of the said account for the year in question, payment vouchers for vendors to the same account, as well as checks and remittances for the purchase of fixed assets; and since Plaintiff has failed to provide evidence that these payments were part of the assets that it had deducted from Zakat Base; and since there was an ambiguity regarding the purpose of purchasing the said assets by Plaintiff; and since Plaintiff, having reviewed its Zakat Declaration by the Department, has failed to submit the statements showing the details of the deductions from Zakat Base; Therefore, the Department satisfies to dismiss Plaintiff’s objection.

Second: Item (Owner’s Withdrawals from Deferred Profits), which includes Plaintiff objection to Defendant’s Decision regarding the non-deduction of the owner’s withdrawals from deferred profits added to Zakat Base, while Defendant argued that Plaintiff did not submit the documents supporting the activity of “withdrawals”.

The Department, having taken cognizance of documents included in Case file, requests, defenses, and pleas raised by parties thereto, found that; since Paragraph (8/First) of Article (4) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) of 01/06/1438 AH stipulated: “The Zakat Base consists of all Zakat Payer’s funds subject to Zakat, including the following: 8. Balance of profits carried forward from previous years at the end of the year.”; and since Article (20.3) of the same Implementing Regulations stipulated: “The burden of prove of correctness of information in Zakat Payer’s Declaration regarding items and any other data rests on Zakat Payer. If Zakat Payer fails to prove correctness of the items in its Declaration, the Authority may disapprove the item whose correctness has not been proven by Zakat Payer or make an Estimated Assessment according to the Authority’s opinion based on relevant circumstances and facts and available information.”; and since the dispute over the item in question is related to documents; and since Plaintiff has failed to provide evidence of the withdrawals from the profit account in question, as it did not submit Partners’ Decision or bank statements to establish that those withdrawals were not under its disposal prior to the completion of Zakat Year, nor it did submit documents supporting its view; Therefore, the Department satisfies to dismiss Plaintiff’s objection.

Third: Item (Repeated Addition of Amount of “SAR 676,044” to Zakat Base), which includes Plaintiff objection to Defendant’s Decision regarding the addition of the amount of (SAR 676,044) to Zakat Base, while Defendant argued that there is an additional financing loan in the amount of (SAR 676,044) was added to Zakat Base pursuant to Article (4/First) of Implementing Regulations for the Collection of Zakat.

The Department, having taken cognizance of documents, defenses, and pleas raised by Plaintiff, found that; since Plaintiff has submitted proof of payment of the Zakat due on the contested amount; and since Plaintiff has accepted Defendant’s Decision, under which it paid the Zakat due and submitted proof of its payment; and since Defendant’s response did not take Plaintiff’s payment into account consideration; Therefore, the Department satisfies to abolish Defendant’s Decision regarding the item in question.



For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

First: In Form: Abolish Defendant's (ZATCA) Decision against Plaintiff (Mr.), holder of National ID No.) regarding the Zakat Assessment in question.

Second: On merits:

1. Abolish Defendant's (ZATCA) Decision regarding item (Repeated Addition of Amount of "SAR 676,044" to Zakat Base).
2. Dismiss Plaintiff's other objections.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection
May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

Appellate Committee:

Appeal Committee ruled to uphold the Decision.



Committee for Determination of Income Tax Violations and Disputes

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

Decision No. IFR-2022-1151

Case No. 51314-2021-Z

Key words:

Zakat – Accounts – Lack of Reasoning of Assessment – Loans – Advance Payments from Customers – Receivables of Related Parties – Accumulated Losses – Spare Parts Inventory – Trade Payables – Losses/Revenues of Foreign Companies' Investments – Provisions – Other Liabilities – Profit of Comprehensive Income

Abstract

Plaintiff (Zakat Payer) filed this Case to abolish Defendant's (ZATCA) Decision regarding Zakat Assessment of 2017 AD, as it included Plaintiff's objection to Defendant's Decision regarding items (Losses/Revenues of Foreign Companies' Investments), (Loans), (Profit of Comprehensive Income), (Advance Payments from Customers), (Trade Payables), and (Other Liabilities).

The Department found that:

As for item (Losses/Revenues of Foreign Companies' Investments); Plaintiff has submitted an analytical statement of investments showing the names of companies and Plaintiff's share of the profits and losses of companies, as well as the amounts of investments deducted from Zakat Base.

As for item (Loans); Plaintiff has submitted bank statements issued by several banks, in addition to an analytical statement showing the activity of loans for the year in question.

As for item (Profit of Comprehensive Income); Plaintiff has excluded the comprehensive profit from its Zakat Declaration of 2017, while Defendant has excluded the income from other deductions in Zakat Assessment, which result in duplication in the deduction As for item (Advance Payments from Customers); the balances of the activity of the advanced payments from customers were consistent with the financial statements.

As for item (Trade Payables); Plaintiff has calculated the amounts that completed the Zakat Year; and since the amounts added to the Zakat Base, as per the Assessment, were differed from amounts that completed the Zakat Year as stated in the activity statement for the item in question.

As for item (Other Liabilities); the amounts added to the Zakat Base, as per the Assessment, were differed from amounts that completed the Zakat Year as stated in the activity statement for the item in question.

The Department decided to abolish Defendant's Decision regarding items (Loans), (Revenues of Foreign Companies' Investments), (Advance Payments from Customers), (Profit of Comprehensive Income), and (Trade Payables); amend the same regarding item (Other Liabilities); and dismiss Plaintiff's other objections.

Instruments:

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



- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- Paragraphs (4/A/Second), (1/Second), (9/Second), (4/First), and (5/First) of Article (4); Articles (21.7), (20.3), and (22) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH. https://zatca.gov.sa/ar/RulesRegulations/Taxes/Documents/القرار_الوزاري_واللائحة.PDF
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)

Facts:

Facts of the Case are summarized as follows: Mr., holder of National ID No., in his capacity as Plaintiff's (..... Company, C.R. No.) Attorney, under POA No. dated .../.../..., issued by the Notary Public in Riyadh Central Region; has filed a statement of claim objecting to the Decision issued by Zakat, Tax, and Customs Authority ("ZATCA") regarding Zakat Assessment of 2017 AD.

Having presented the statement of claim to Defendant, it answered as follows:

As for item (Lack of Reasoning of Assessment of 2015 – 2018), Defendant has made the Assessment by virtue of the notifications issued automatically, which detail the Assessment items. In addition, the Assessment was made by amending Plaintiff's Declarations through the e-portal (IRAD), which Plaintiff can view at any time. Accordingly, Defendant adheres to the validity of its procedure pursuant to Article (21) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH.

As for item (Loans of 2015 – 2018), Defendant, upon making the Assessment, has added the loans that completed the Zakat Year, with the balance of the beginning or the end of Zakat period, whichever is less. In addition, Defendant has rejected Plaintiff's objection due to the fact that the statements submitted by Plaintiff did not amount to a bank statement that could be relied upon to calculate the balance that completed the Zakat Year. Moreover, Defendant has based its Decision on Article (20) of Implementing Regulations for the Collection of Zakat.

As for item (Asset Financing of 2015 and 2016), Defendant has added the loans that completed the Zakat Year, in addition to the revolving loans, after reviewing the financial statements, which showed a cash shortfall during 2015 and 2016, and the purchase of assets for amounts exceeding the cash available during the year, which indicates that the amounts received during the year from the loans were used to finance acquisition assets. In addition, Defendant has based its Decision on Article (4) of Implementing Regulations for the Collection of Zakat.

As for item (Advance Payments from Customers of 2015 – 2018), Defendant has found that the balances were inconsistent with the balances of the financial statements. Also, the opening and closing balances were differed from the statements submitted for the same years. Accordingly, Defendant adheres to the validity of its procedure, as the burden of submitting documents that match the balances of the financial statements falls on Plaintiff, pursuant to Article (20) of Implementing Regulations for the Collection of Zakat.

As for item (Receivables of Related Parties of 2015 – 2018), Defendant has rejected the deduction of the item in question, as it represents commercial transactions with related parties. As for item (Currency Conversion Reserve of 2018), Defendant has rejected the deduction of the item in question, as the activity that took place in 2018 in the list of equity rights was inconsistent with the activity in the investments. In addition, Defendant did not find out which investments Plaintiff had deducted from its Declarations, nor did it find out that Plaintiff had not processed the currency difference within the balance of



investments deducted from the Zakat Base or that these differences were related to non-deductible investments. Moreover, Defendant has based its Decision on Article (20) of Implementing Regulations for the Collection of Zakat.

As for item (Accumulated Losses of 2017 and 2018), Defendant has based its Decision on Article (4) of Implementing Regulations for the Collection of Zakat, as the deferred losses deducted from Zakat Base are the deferred losses adjusted pursuant to Defendant's Assessments; however, no adjusted losses, except in 2017, were resulted from Defendant's previous Assessments.

As for item (Spare Parts Inventory of 2017), Defendant did not deduct the spare parts inventory amounting to (SAR 84,538,340) as stated in Plaintiff's Declaration, as such amount was deducted within the cost of sales. In addition, since Plaintiff has deducted inventory values greater than those included in the financial statements within the cost of sales; therefore, it was deducted from the net profit. Moreover, the processing of the entire inventory within the cost of sales indicates that the spare parts are related to operations.

As for item (Property Investment of 2018), Defendant has rejected the deduction of the item in question from Zakat Base due to the existence of activity thereon, which indicates that it was not for the purpose of acquisition. Accordingly, Defendant adheres to the validity of its procedure, as Plaintiff did not provide the detailed activity of the investment, which demonstrates the existence of any exclusions during the years or to determine the details of the values included in the financial statements, pursuant to Article (20) of Implementing Regulations for the Collection of Zakat.

As for item (Trade Payables of 2015 – 2018), Defendant has added amounts that completed the Zakat Year (the balance of the beginning of Zakat period – the paid balance) after reviewing the statement of balance activity submitted by Plaintiff, pursuant to Article (4) of Implementing Regulations for the Collection of Zakat.

As for item (Losses/Revenues of Foreign Companies' Investments of 2016 and 2017), Defendant adheres to the validity of its procedure, as it was unable to identify the investments that have been deducted from Plaintiff's Zakat Base, or to determine whether Plaintiff has processed the profits/losses within the investment balance deducted from Zakat Base, pursuant to Article (20) of Implementing Regulations for the Collection of Zakat.

As for item (Provisions of 2015 – 2018), Defendant has added the amount of (SAR 10,237,166) for 2015; the amount of (SAR 6,806,993) for 2016; the amount of (SAR 45,393,182) for 2017; and the amount of (SAR 107,360,007) for 2018 to Zakat Base, based on Article (6) of Implementing Regulations for the Collection of Zakat.

As for item (Liabilities of 2015 – 2018), Defendant, upon making the Assessment, has added the items to Zakat Base with the balance that completed the Zakat Year (the balance of the beginning of Zakat period – the paid balance), in accordance with the statement of balance activity submitted by Plaintiff, pursuant to Article (4) of Implementing Regulations for the Collection of Zakat.

Based on the foregoing, Defendant requests that Plaintiff's Case be dismissed, while preserving its right to present further responses and clarifications until pleadings closure.

On Thursday 18/10/1443 AH, the Department held its session remotely 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. dated .../.../..., issued by the Notary Public in Riyadh Central Region; and Ms., holder of National ID No., appeared in her capacity as Defendant's (ZATCA) Representative, by virtue of Authorization No. dated .../.../..., issued by Deputy Governor for Legal Affairs. Having asked Plaintiff's Attorney regarding the Case, he maintained his statements contained in the statement of claim submitted to General Secretariat of Tax Committees. He also stated that his client ("Plaintiff") has



submitted a supplementary memorandum on 15/05/2022 AD to General Secretariat of Tax Committees that did not include new statements, but rather was to further confirmation and explanation of the documents previously submitted by his client. Having asked Defendant's Representative regarding her response, she maintained the statements contained in Defendant's Rejoinder and requested the Department not to accept any new documents that have not been submitted to Defendant during the examination and objection stage. Having asked parties to the Case whether they had further statements, they responded with denial. Therefore, the Department decided to close pleadings for deliberation.

Grounds:

Having perused the Zakat Law promulgated by Royal Order No. (17/28/577) of 14/03/1376 AH and its Implementing Regulations issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH, as amended, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, as well as other relevant laws and regulations.

In Form: Since Plaintiff filed the Case to abolish Defendant's Decision regarding Zakat Assessment of 2017 AD, and since this dispute is a Zakat dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Decree No. (26040) of 21/04/1441 AH, and since the Case was filed by a person with capacity, and within the period prescribed by Law, it is then accepted in form.

On Merits: Having taken cognizance of documents included in Case file, requests, defenses, and pleas raised by parties thereto, the Department found that the dispute lies in Plaintiff's objection to Defendant's Decision regarding the issuance of Zakat Assessment of 2017 AD, which included the following:

First: Item (Lack of Reasoning of Assessment), which includes Plaintiff objection to Defendant's Decision regarding the issuance of Zakat Assessment without adhering to the formal procedures for Examination and Assessment, as Plaintiff stated that Defendant has amended the Zakat Assessment without clarifying the reasons for such amendment; thereby violating the provisions of Article (22) of Implementing Regulations for the Collection of Zakat, while Defendant argued that its procedure came in compliance with the provisions of Implementing Regulations for the Collection of Zakat.

The Department, having taken cognizance of the Case file, found that; since Article (21.7) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) of 01/06/1438 AH stipulated: "7. The Authority, if it deems necessary to amend Zakat Payer's Declaration, shall inform Zakat Payer of any amendments that took place, the reasons for the amendment, the amount of Zakat due, the objection right, and the statutory period specified for objection, provided that such notice be through the registered mail or by any other means proving receipt thereof, including notice through official electronic services."; and since Defendant has an obligation to inform Plaintiff of any amendments and the reasons thereof upon issuing the Zakat Assessment by any means proving receipt of the notice; and since the amendment letter for the year in question, upon reviewing by the Department has included the items that were amended by Defendant, as well as the reasons thereof; and since Defendant has informed Plaintiff of the amendment and provided thereof with the details of the Zakat Assessment, clarifying the details of the amended items and amounts through the e-portal (IRAD); and since the statement of objection submitted by Plaintiff on 17/02/2021 AD has established that Plaintiff was aware of the details and reasons for the amendments made by Defendant



upon issuing the Zakat Assessment; and since there are no valid Grounds for Plaintiff's argument regarding the formal aspect of the Zakat Assessment in question; Therefore, the Department satisfies to dismiss Plaintiff's objection.

Second: Item (Loans), which includes Plaintiff objection to Defendant's Decision regarding the addition of loans at the beginning or the end of Zakat period, whichever is less, for the non-completion of Zakat Year, as Plaintiff referred to the account activity, which shows that the payment (debit balance) during the year exceeds the balance of the beginning of Zakat period, while Defendant argued that its procedure came in compliance with the provisions of Implementing Regulations for the Collection of Zakat.

The Department, having taken cognizance of the Case file, found that; since Paragraph (5/First) of Article (4) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) of 01/06/1438 AH stipulated: "The Zakat Base consists of all Zakat Payer's funds subject to Zakat, including the following: 5. Government and commercial loans, as well as other similar sources of financing such as creditors, promissory notes, and overdraft accounts owed by Zakat Payer, which are handled as follows: (a) The remaining cash that has been saved or preserved; (b) Sources used for financing acquisition assets; and (c) Sources used for trade offers and has completed the Zakat Year."; and since Plaintiff has submitted bank statements issued by several banks, in addition to an analytical statement showing the activity of loans for the year in question, through which the Department found that the amounts paid during the year exceed the balance of the beginning of Zakat period of the loans in question; hence, they did not complete the Zakat Year; Therefore, the Department satisfies to accept Plaintiff's objection.

Third: Item (Advance Payments from Customers), which includes Plaintiff objection to Defendant's Decision regarding the addition of advance payments from customers with the balance of the beginning or the end of Zakat period, whichever is less, for the non-completion of Zakat Year, as Plaintiff referred to the account activity, which shows that the payment (debit balance) during the year exceeds the balance of the beginning of Zakat period, while Defendant argued that its procedure came in compliance with the provisions of Implementing Regulations for the Collection of Zakat.

The Department, having taken cognizance of the Case file, found that; since Paragraph (4/First) of Article (4) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) of 01/06/1438 AH stipulated: "The Zakat Base consists of all Zakat Payer's funds subject to Zakat, including the following: 4. Advanced revenues that completed the Zakat Year."; and since the balances of the activity of the advanced payments from customers were consistent with the financial statements; and since Plaintiff has calculated the amounts that completed the Zakat Year; Therefore, the Department satisfies to amend Defendant's procedure by adding the amounts that completed the Zakat Year pursuant to the activity statement submitted by Plaintiff.

Fourth: Item (Receivables of Related Parties), which includes Plaintiff objection to Defendant's Decision regarding the non-approval of deducting the liabilities of the related parties, as Plaintiff stated that Defendant's procedure is considered double charge of Zakat pursuant to Fatwa No. (22665) of 15/04/1424 AH, while Defendant argued that it rejected the deduction of the item in question, as it represents commercial transactions with related parties.

The Department, having taken cognizance of the Case file, found that the dispute lies in Plaintiff requesting deduction of long-term receivables, considering that they were subject to Zakat with the relevant authorities; and since Plaintiff has failed to provide evidence that the amounts in question were subject to Zakat with the relevant authorities; Therefore, the Department satisfies to dismiss Plaintiff's objection.



Fifth: Item (Accumulated Losses), which includes Plaintiff objection to Defendant's Decision regarding the non-approval of deducting the accumulated losses due to mismatch of the closing balance of 2016 with the opening balance of 2017, as Plaintiff stated that this mismatch is due to the shift to standards, and that the losses are real and actual, as the retained profits shifted from a balance of (SAR 21,800,000) to accumulated losses amounting to (SAR 126,720,000), i.e. the amount of (SAR 148,520,000) were charged as deferred losses to the balance of the beginning of 2017, while Defendant argued that its procedure came in compliance with the provisions of Implementing Regulations for the Collection of Zakat.

The Department, having taken cognizance of the documents included in the Case file, found that; since Paragraph (9/Second) of Article (4) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) of 01/06/1438 AH stipulated: "The following items shall be deducted from the Zakat Base: 9. The net adjusted deferred losses according to the Authority's Assessments after adding the provisions or reserves only thereto, under which the loss was previously reduced in the year of its composition."; and since the deferred losses were among the elements that may be deducted from Zakat Base, which are the adjusted losses as per Assessments issued by Defendant after adding the provisions or reserves only thereto, under which the loss was previously reduced in the year of its composition for the purpose of avoiding the double charge of Zakat; hence, the deferred losses that are considered subject to Zakat are those adjusted under the requirements stated in Zakat Law, not the deferred losses included in the financial statements; and since Defendant, according to the Zakat Assessment in question, has deducted the deferred losses of 2017, after its amendment with provisions that were refunded in 2017, under which Defendant approved as the balance of deferred losses of 2018; Therefore, the Department satisfies to dismiss Plaintiff's objection.

Sixth: Item (Spare Parts Inventory), which includes Plaintiff objection to Defendant's Decision regarding the non-deduction of the spare parts inventory, as Plaintiff stated that the non-sale spare parts are among deductible assets pursuant to Article (4) of Implementing Regulations for the Collection of Zakat, while Defendant argued that its procedure came in compliance with the provisions of Implementing Regulations for the Collection of Zakat.

The Department, having taken cognizance of the Case file, found that; since Paragraph (1/Second) of Article (4) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) of 01/06/1438 AH stipulated: "The following items shall be deducted from the Zakat Base: 1. Fixed assets, including the following: The net value of fixed assets (acquired assets), any payments for the purchase of fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by Zakat Payer, unless there is a legal impediment to transferring ownership, and that they are used in the activity."; and since Article (20.3) of the same Implementing Regulations stipulated: "The burden of prove of correctness of information in Zakat Payer's Declaration regarding items and any other data rests on Zakat Payer. If Zakat Payer fails to prove correctness of the items in its Declaration, the Authority may disapprove the item whose correctness has not been proven by Zakat Payer or make an Estimated Assessment according to the Authority's opinion based on relevant circumstances and facts and available information."; and since the non-sale spare parts are among items deducted from Zakat Base, provided that their nature is proven and that they are used for maintaining fixed assets and not for sale; and since Plaintiff has failed to submit documents clarifying the nature of the spare parts claimed to be deducted for verification of whether they were used for maintaining fixed assets; and since Defendant has rejected the deduction of spare parts in question for previous deduction of the same by Plaintiff from the net profit within



the cost of sales; and since Plaintiff has failed to disprove Defendant statement; Therefore, the Department satisfies to dismiss Plaintiff's objection.

Seventh: Item (Trade Payables), which includes Plaintiff objection to Defendant's Decision regarding the addition of the trade payables with the balance of the beginning or the end of Zakat period, whichever is less, for the non-completion of Zakat Year, as Plaintiff referred to the account activity, which shows that the payment (debit balance) during the year exceeds the balance of the beginning of Zakat period, while Defendant argued that its procedure came in compliance with the provisions of Implementing Regulations for the Collection of Zakat.

The Department, having taken cognizance of the Case file, found that; since Paragraph (5/First) of Article (4) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) of 01/06/1438 AH stipulated: "The Zakat Base consists of all Zakat Payer's funds subject to Zakat, including the following: 5. Government and commercial loans, as well as other similar sources of financing such as creditors, promissory notes, and overdraft accounts owed by Zakat Payer, which are handled as follows: (a) The remaining cash that has been saved or preserved; (b) Sources used for financing acquisition assets; and (c) Sources used for trade offers and has completed the Zakat Year."; and since Plaintiff has submitted the activity statement of the trade payables, through which the Department found that Plaintiff has calculated the amounts that completed the Zakat Year; and since the amounts added to the Zakat Base, as per the Assessment, were differed from amounts that completed the Zakat Year as stated in the activity statement for the item in question; Therefore, the Department satisfies to amend Defendant's procedure by adding the amounts that completed the Zakat Year pursuant to the activity statement submitted by Plaintiff.

Eighth: Item (Losses/Revenues of Foreign Companies' Investments), which includes Plaintiff objection to Defendant's Decision regarding the non-approval of adding and deducting the losses/revenues of foreign companies' investments from the adjusted profit, as Plaintiff stated that the investments revenues are deducted from the book profit of the year to realize the adjusted profit, and then deducted from the investments balance at the end of the year. Accordingly, Plaintiff objects to the non-approval of deduction of revenues from the adjusted profit and deduction of the same from investments, while Defendant argued that its procedure came in compliance with the provisions of Implementing Regulations for the Collection of Zakat.

The Department, having taken cognizance of the Case file, found that; since Paragraph (4/A/Second) of Article (4) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) of 01/06/1438 AH stipulated: "The following items shall be deducted from the Zakat Base: 4. (a) Investments in establishments inside the Kingdom, in partnership with others, if such investments are subject to collection of Zakat under these Regulations; however, if investment in such establishments is not subject to collection, then it shall not be deducted from Zakat Base."; and since Plaintiff has submitted an analytical statement of investments showing the names of companies and Plaintiff's share of the profits and losses of companies, as well as the amounts of investments deducted from Zakat Base; and since Plaintiff has provided details of foreign investments and a proof of their Zakat processing; Therefore, the Department satisfies to accept Plaintiff's objection.

Ninth: Item (Provisions), which includes Plaintiff objection to Defendant's Decision regarding the addition of provisions amounted to (SAR 45,393,182) to the net profit, while Defendant argued that its procedure came in compliance with the provisions of Implementing Regulations for the Collection of Zakat.



The Department, having taken cognizance of the Case file, found that; since Article (6.6) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) of 01/06/1438 AH stipulated: “6. All provisions...”; and since the provisions in question represent provisions that were composed during the year, and settlements that led to the increase in provisions; and since Plaintiff has failed to add these provisions to the profit within provisions added to the profit in Zakat Declaration; and since Plaintiff has failed to provide evidence to the contrary; Therefore, the Department satisfies to dismiss Plaintiff’s objection.

Tenth: Item (Other Liabilities), which includes Plaintiff objection to Defendant’s Decision regarding the addition of the other liabilities with the balance of the beginning or the end of Zakat period, whichever is less, for the non-completion of Zakat Year, as Plaintiff referred to the account activity, which shows that the payment (debit balance) during the year exceeds the balance of the beginning of Zakat period, while Defendant argued that its procedure came in compliance with the provisions of Implementing Regulations for the Collection of Zakat.

The Department, having taken cognizance of the Case file, found that; since Paragraph (5/First) of Article (4) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) of 01/06/1438 AH stipulated: “The Zakat Base consists of all Zakat Payer’s funds subject to Zakat, including the following: 5. Government and commercial loans, as well as other similar sources of financing such as creditors, promissory notes, and overdraft accounts owed by Zakat Payer, which are handled as follows: (a) The remaining cash that has been saved or preserved; (b) Sources used for financing acquisition assets; and (c) Sources used for trade offers and has completed the Zakat Year.”; and since Plaintiff has submitted the activity statement, through which the Department found that Plaintiff has calculated the amounts that completed the Zakat Year; and since the amounts added to the Zakat Base, as per the Assessment, were differed from amounts that completed the Zakat Year as stated in the activity statement for the item in question; Therefore, the Department satisfies to amend Defendant’s procedure by adding the amounts that completed the Zakat Year pursuant to the activity statement submitted by Plaintiff.

Eleventh: Item (Profit of Comprehensive Income), which includes Plaintiff objection to Defendant’s Decision regarding the addition of an amount of (SAR 1,298,000), as Plaintiff stated that it has removed the profits when uploading the Zakat Declaration.

The Department, having taken cognizance of the Case file, found that; since and Plaintiff has excluded the comprehensive profit from its Zakat Declaration of 2017, while Defendant has excluded the income from other deductions in Zakat Assessment, which result in duplication in the deduction; Therefore, the Department satisfies to accept Plaintiff’s objection.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

First: Abolish Defendant’s (ZATCA) Decision against Plaintiff (..... Company, TIN No.) regarding item (Loans of 2017) in question.

Second: Abolish Defendant’s (ZATCA) Decision against Plaintiff (..... Company, TIN No.) regarding item (Losses/Revenues of Foreign Companies’ Investments of 2017) in question.

Third: Abolish Defendant’s (ZATCA) Decision against Plaintiff (..... Company, TIN No.) regarding item (Profit of Comprehensive Income of 2017) in question.

Fourth: Amend Defendant’s (ZATCA) Decision against Plaintiff (..... Company, TIN No.) regarding item (Advance Payments from Customers of 2017) in question, for the Grounds stated herein.



Fifth: Amend Defendant's (ZATCA) Decision against Plaintiff (..... Company, TIN No.) regarding item (Trade Payables of 2017) in question, for the Grounds stated herein.

Sixth: Amend Defendant's (ZATCA) Decision against Plaintiff (..... Company, TIN No.) regarding item (Other Liabilities of 2017) in question, for the Grounds stated herein.

Seventh: Dismiss Plaintiff's (....., TIN No.) other objections to Defendant's (ZATCA) Decisions in connection with Zakat Assessment of 2017 in question.

This Decision was delivered in presence of Parties. The Department has set Monday 07/11/1443 AH for receiving and a copy of the Decision. The Parties to this case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, this Decision becomes final and enforceable

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

Appellate Committee:

Appeal Committee ruled to uphold the Decision.



Committee for Determination of Tax Violations and Disputes

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

Decision No. FR-2022-1163

Case No. 82226-2021-Z

Key words:

Zakat – Accounts – Issuance of Zakat Assessment on an Unaffiliated Commercial Registration

Abstract

Plaintiff (Zakat Payer) filed this Case to abolish Defendant's (ZATCA) Decision, as it included Plaintiff's objection to Defendant's Decision regarding the issuance of Zakat Assessment of 2020 AD on a commercial registration that has no relation to Plaintiff. The Department found that Defendant has made the Assessment based on a commercial registration that has no relation to Plaintiff, but rather has its own commercial registration. The Department decided to abolish Defendant's Decision.

Instruments:

- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)

Facts:

Facts of the Case are summarized as follows: Mr., holder of National ID No., in his capacity as Plaintiff's (Mr., holder of National ID No.,) Attorney, under POA No. dated .../.../..., issued by Powers of Attorney e-services at the Ministry of Justice; has filed a statement of claim objecting to the Decision issued by Zakat, Tax, and Customs Authority ("ZATCA") regarding Zakat Assessment of 1441 AH.

Having presented the statement of claim to Defendant, it answered with the following: "The Case is inadmissible in form, due to the failure to submit the objection within the statutory period pursuant to Article (3) of Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. (26040) of 21/04/1441 AH. In addition, Defendant preserves its right to present further responses and clarifications until pleadings closure."

Defendant also submitted a supplementary memorandum, in which it answered as follows: "As on merits of Case, Defendant Decision is valid and sound, as it came in compliance with Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. (2216) of 07/07/1440 AH and Rules of Calculating Zakat for Estimate Taxpayers (Previously "Rules for Calculating Zakat on a Deemed Basis"), as the



Zakat Base was calculated based on the capital registered in Commercial Registration No., which is (SAR 500,000). Accordingly, Plaintiff was charged from the date of issuance of the commercial registration on 24/10/1431 AH to 24/10/1441 AH in the amount of (SAR 12,500), and the commercial registration was registered by Plaintiff.” On Wednesday 24/10/1443 AH, the Department held its session remotely 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. dated .../.../..., issued by Powers of Attorney e-services at the Ministry of Justice; and Ms., holder of National ID No., appeared in her capacity as Defendant’s (ZATCA) Representative, by virtue of Authorization No. dated .../.../..., issued by Deputy Governor for Legal Affairs and Compliance. Having asked Plaintiff’s Attorney regarding the Case, he maintained his statements contained in the statement of claim submitted to General Secretariat of Tax Committees. He also stated that Defendant has made the Assessment in question based on a commercial registration belonging to my client, under No....., in addition to another commercial registration, under No....., that has no relation to my client whatsoever. Having asked Defendant’s Representative regarding her response, she maintained the statements previously contained in Defendant’s Rejoinder and requested the Department not to accept any new documents that have not been submitted to Defendant during the examination and objection stage. Accordingly, the Department has requested Defendant’s Representative to express her view on the statement of Plaintiff’s Attorney during this hearing regarding the said commercial registration that does not belong to his client; and decided to postpone the continuation of the hearing of the Case to the session on Thursday, 25/10/1443 AH.

On Thursday 25/10/1443 AH, the Department held its session remotely 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. dated .../.../..., issued by Powers of Attorney e-services at the Ministry of Justice; and Ms., holder of National ID No., appeared in her capacity as Defendant’s (ZATCA) Representative, by virtue of Authorization No. dated .../.../..., issued by Deputy Governor for Legal Affairs and Compliance. Having asked Defendant’s Representative regarding the Department’s request at the previous hearing, she stated that she submitted her response on the statement of Plaintiff’s Attorney to the General Secretariat of Tax Committees. Having asked parties to the Case whether they had further statements, they responded with denial. Accordingly, the Department decided to close pleadings for deliberation.

Grounds:

Having perused the Zakat Law promulgated by Royal Order No. (17/28/577) of 14/03/1376 AH and its Implementing Regulations issued by Minister of Finance’s Decision No. (2082) of 01/06/1438 AH, as amended, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance’s Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, as well as other relevant laws and regulations.

In Form: Since Plaintiff filed the Case to abolish Defendant’s Decision regarding Zakat Assessment of 1441 AH, and since this dispute is a Zakat dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Decree No. (26040) of 21/04/1441 AH, and since the Department found that



the Defendant has made the Zakat Assessment based on a commercial registration that has no relation to Plaintiff whatsoever; Therefore, the Case is accepted in form.

On Merits: Having taken cognizance of documents included in Case file, requests, defenses, and pleas raised by parties thereto, the Department found that the dispute lies in Plaintiff's objection to Defendant's Decision regarding issuance of Zakat Assessment thereon by virtue of Commercial Registration No. dated 24/10/1431 AH of Company of 1441 AH, as Plaintiff claimed that it has no relation to the said commercial registration, and mentioned that it is the owner of Institution, Commercial Registration No. dated 28/05/1431 AH, while Defendant argued that its procedure came in compliance with the provisions of Implementing Regulations for the Collection of Zakat and Rules of Calculating Zakat for Estimate Taxpayers (Previously "Rules for Calculating Zakat on a Deemed Basis"). The Department also found that Defendant has made the Assessment based on commercial registration that was not related to Plaintiff, as Defendant stated in its Reply that it made the Assessment based on Commercial Registration No. of Company, as follows: "The Zakat Base was calculated based on the capital registered in Commercial Registration No., which is (SAR 500,000). Accordingly, Plaintiff was charged from the date of issuance of the commercial registration on 24/10/1431 AH to 24/10/1441 AH in the amount of (SAR 12,500), and the commercial registration was registered by Plaintiff". Based on the foregoing, the Department satisfies to abolish Defendant's Decision.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Abolish Defendant's (ZATCA) Decision against Plaintiff (....., TIN No.) regarding the Zakat Assessment in question.

This Decision was delivered in presence of Parties. The Department has set the date of (Tuesday, 08/11/1443 AH) as the date for receipt of the Decision copy. 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 Blessings and Peace be upon our Prophet Muhammad and his family and companions.

Appellate Committee:

Appeal Committee ruled to uphold the Decision.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IFR-2022-504

Case No. 26225-2020-Z

Key words:

Zakat – Accounts – Reopen Assessment – Import Differences

Abstract

Plaintiff (Zakat Payer) filed this case to abolish Defendant's (ZATCA) Decision regarding Zakat Assessment of 1999 to 2013 AD, as it included Plaintiff's objection to Defendant's Decision regarding items (Reopen Assessment) and (Import Differences). The Department found that:

As for item (Reopen Assessment); Defendant has the right to make the Assessment within five (5) years from the final date set for submission of Zakat Declaration, and that Defendant failed to inform Plaintiff of Zakat Assessment of 1419 to 1433 AH only after the lapse of five (5) years from the final date set for submission of Zakat Declaration.

As for item (Import Differences); Plaintiff failed to provide the necessary conformity to clarify the reasons and justifications for the import differences, nor did it provide the documents supporting its statement of claim.

The Department decided to abolish Defendant's Decision regarding item (Reopen Assessment) and dismiss Plaintiff's objection to item (Import Differences).

Instruments:

- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- Paragraphs (10, 8/C) of Article (21), and Article (20.3) [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)

Facts:

Facts of the case are summarized as follows: Mr., holder of National ID No., in his capacity as Plaintiff's (Mr., holder of National ID No.) Attorney, under POA No. dated .../.../...; has filed a statement of claim objecting to the Decision issued by Zakat, Tax, and Customs Authority regarding Zakat Assessment of 1419 to 1434 AH, which centers in items (Reopen Assessment) and (Import Differences). Having presented the statement of claim to Defendant, it answered as follows:

First: Item (Reopen Assessment): Plaintiff was recharged due to the existence of uncoded imports that were not previously charged or included in Declarations submitted by Plaintiff, based on Article (21) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH.



Second: Import Differences: Plaintiff was charged pursuant to the Rule of Import set forth in Article (13) of Implementing Regulations for the Collection of Zakat, as the imports of vegetables and fruits were charged at a rate of (3.5%), and the imports of general trade at a rate of (10.5%), with the addition of the capital that was charged pursuant to the Rule of Capital Determination for Importers, except for year 1430 AH, as the capital was charged in addition to profits of (15%) of the capital due to the absence of imports during that year. On Sunday 12/07/1443 AH, the Department held its session remotely 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. dated .../.../...; and Mr., holder of National ID No., appeared in his capacity as Defendant's (ZATCA) Representative, by virtue of Authorization No. dated .../.../..., issued by Deputy Governor for Legal Affairs. Having asked Plaintiff's Attorney regarding his case, he maintained his statements contained in the statement of claim submitted to General Secretariat of Tax Committees. Having asked Defendant's Representative regarding his response, he maintained his answers contained in his Reply deposited in the Case file. He also requested the Department not to accept any new documents that have not been submitted to Defendant during the examination and objection stage. Having asked parties to the Case whether they had further statements, they responded with denial. Therefore, the Department decided to close pleadings for deliberation.

Grounds: ◇

Having perused the Zakat Law promulgated by Royal Order No. (17/28/577) of 14/03/1376 AH and its Implementing Regulations issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH, as amended, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, as well as other relevant laws and regulations.

In Form: Since Plaintiff filed the case to abolish Defendant's Decision regarding Zakat Assessment of 1419 to 1434 AH, and since this dispute is a Zakat dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Decree No. (26040) of 21/04/1441 AH, and since the Case was filed by a person with capacity, and within the period prescribed by Law, it is then accepted in form.

On Merits: Having taken cognizance of documents included in Case file, requests, defenses, and pleas raised by parties thereto, the Department found that the dispute lies in Plaintiff's objection to Defendant's Decision regarding issuance of Zakat Assessment of 1419 to 1434 AH, which included the following:

First: Item (Reopen Assessment of 1419 to 1434 AH), which includes Plaintiff objection to Defendant's Decision regarding the Reassessment on the amount of (SAR 278,916) of 1419 to 1434 AH, while Defendant argued that its procedure came in compliance with the provisions of Implementing Regulations for the Collection of Zakat, due to the existence of uncoded imports that were not previously charged or included in Declarations submitted by Plaintiff. The Department found that: Since Article (21) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH stipulated: "8. The Authority may make or amend the Assessment at any time without being bound by a specific period in the following cases: (a) If Zakat Payer's written consent was obtained to make or amend the Assessment; (b) If Zakat Payer failed to submit the Declaration; and (c) If the Authority found that the Declaration contains



incorrect information. 10. The Authority may rectify the incorrect implementation of Zakat Law or regulations within five (5) years from the final date set for submission of Zakat Declaration for the Zakat Year at Zakat Payer's request, or if the error was discovered by the Authority or by the regulatory authorities. 11. The Authority shall inform Zakat Payer of any error related to Zakat Assessment discovered by the Authority after the lapse of the previous periods, whereby Zakat Payer can rectify the error and avoid any legal consequences.”; and since Defendant's right to make the Zakat Assessment without being bound by a specific period is restricted by a set of conditions and cases, including those contained in Article (21.8/C) of Implementing Regulations for the Collection of Zakat, which entitles Defendant to make or amend the Zakat Assessment without being bound by a specific period in the event that Plaintiff's Declaration contains incorrect information; However, in the event that the Plaintiff's Declaration is invalid due to the incorrect implementation of Zakat regulations or disagreement in viewpoints during the Zakat calculation; Defendant's right to make the Zakat Assessment lapses after five (5) years from the final date set for submission of Zakat Declaration, in accordance with Article (21.10) of Implementing Regulations for the Collection of Zakat; and since the aforementioned is not affected by Defendant's claim that Plaintiff's Declaration is incorrect due to Plaintiff's amendment of crucial items affecting the Assessment, since the Department, having referred to the Case file, found that Defendant failed to provide any substantial evidence of incorrect information included in Plaintiff's Declaration that entitles Defendant to make the Zakat Assessment without being bound by a specific period, as amendments made by Defendant resulted either from incorrect implementation of Zakat regulations or disagreement in viewpoints during the Zakat calculation. In either case, Defendant right to make the Zakat Assessment within five (5) years from the final date set for submission of Zakat Declaration pursuant to Article (21.10) of Implementing Regulations for the Collection of Zakat; and since Article (21.8/C) of Implementing Regulations for the Collection of Zakat does not apply to Plaintiff's case; and since Defendant has failed to inform Plaintiff of Zakat Assessment of 1419 to 1433 AH only after the lapse of five (5) years from the final date set for submission of Zakat Declaration for years in question; Therefore, the Department satisfies to abolish Defendant's Decision.

Second: Item (Import Differences of 1434 AH), which includes Plaintiff objection to Defendant's Decision regarding the addition of import differences of 1434 AH, while Defendant argued that its Decision came in compliance with the provisions of Implementing Regulations for the Collection of Zakat, and that Plaintiff was charged pursuant to the Rule of Import.

The Department found that: Since Article (20.3) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH stipulated: “The burden of prove of correctness of information in Zakat Payer's Declaration regarding items and any other data rests on Zakat Payer. If Zakat Payer fails to prove correctness of the items in its Declaration, the Authority may disapprove the item whose correctness has not been proven by Zakat Payer or make an Estimated Assessment according to the Authority's opinion based on relevant circumstances and facts and available information.”; and since Plaintiff has failed to provide the necessary conformity to clarify the reasons and justifications for the import differences, nor did it provide the documents supporting its statement of claim; and since the Import Declaration issued by Saudi Customs is considered a substantial evidence from an impartial third party; and since Defendant's procedure to amend Plaintiff's business outcome is due to the existence of differences in the value of the imports included in Plaintiff's Declaration compared to the imports included in Customs Declaration; Therefore, the Department satisfies to dismiss Plaintiff's objection.

For the aforementioned Grounds, the Department unanimously decided as follows:



Decision:

First: Abolish Defendant's (ZATCA) Decision against Plaintiff (....., TIN No.) regarding the Reassessment after the lapse of statutory period in question.

Second: Dismiss Plaintiff's (....., TIN No.) objection to item (Import Differences of 1434 AH) in question.

This Decision was delivered in presence of Parties. The Department has set the date of (Tuesday, 05/08/1443 AH) as the date for receipt of the Decision copy. 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.

Appellate Committee:

Appeal Committee ruled to uphold the Decision.



Committee for Determination of Tax Violations and Disputes

Third Circuit for Settling Income Tax Violations and Disputes In Riyadh

Decision No. IFR-2022-3201

Case No. Z-2020-26777

Key words:

Zakat – Accounts – Investment – Profit/Loss of the Year

Abstract

Plaintiff (Zakat Payer) filed this case to abolish Defendant's (ZATCA) Decision regarding Zakat Assessment of 2018 AD, as it included Plaintiff's objection to Defendant's Decision regarding items (Investment in "..... Company" of "SAR 6,916,000"), (Investment in "..... Company" of "SAR 80,000") and (Profit/Loss of the Year). The Department found that:

As for item (Investment in "..... Company" "..... Bank" of "SAR 6,916,000"), Plaintiff failed to provide proof of Zakat calculation for foreign investments in Company (Bahrain) in accordance with of Implementing Regulations for the Collection of Zakat of 1438 AH and its payment to Defendant for those investments, nor did it provide proof of Zakat calculation in accordance with Saudi laws.

As for item (Investment in "..... Company" of "SAR 80,000"); Plaintiff is a partner in the Company, which is not affected by Defendant claim that the Investee Company submits Zakat Declarations and is not registered with Defendant, as it is a Saudi company under incorporation pursuant to the date of the Company's AOA submitted.

As for item (Profit/Loss of the Year); the objection is dismissed in form due to the submission after the lapse of the statutory period, as Plaintiff submitted the objection on 04/02/1442 AH within the statutory period set for objection submission without objecting to this item within its statement of claim.

The Department decided to dismiss Plaintiff's objection to item (Investment in "..... Company of "SAR 6,916,000"); abolish Defendant's on item (Investment in "..... Company" of "SAR 80,000"), and disregard item (Profit/Loss of the Year).

Instruments:

- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- Article (41.1/F) and Article (66) of [Law of Civil Procedures promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH](#)
- Paragraphs (4/A, 4/B/Second) of Article (4), Article (20.3), and Article (22.1) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. (2082) dated 01/06/1438 AH. https://zatca.gov.sa/ar/RulesRegulations/Taxes/Documents/القرار_الوزاري_واللائحة.PDF
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)



Facts:

Facts of the case are summarized as follows: Mr., holder of National ID No., in his capacity as Plaintiff's (..... Company, C.R. No.) Legal Representative; has filed a statement of claim objecting to the Decision issued by Zakat, Tax, and Customs Authority regarding Zakat Assessment of 2018 AD, which centers in the following:

First: Item (Investment in "..... Company" "..... Bank" of "SAR 6,916,000"): Plaintiff objects to Defendant's Decision for the non-deduction of foreign investments of 2018 AD from Zakat Base, as there is no Zakat due on those foreign investments from the shareholders, as shown in the financial statements of ("..... Company" "..... Bank") that losses were incurred during 2018 AD in the amount of (\$5,246,000) and deferred losses in the amount of (\$30,330,000). The same goes to the year 2019 AD, wherein losses were incurred and others were deferred.

Second: Item (Investment in "..... Company" of "SAR 80,000"): Plaintiff objects to Defendant's Decision for the non-deduction of the investment in Company from Zakat Base, as the Company is a Saudi Limited Liability Company and its AOA is attached to the Case file. In addition, the Company has not practiced its activity yet, and no financial statements have been prepared, as the investment should not be added to Zakat Base except after amending the Company's AOA and starting to practice the activity. Moreover, the Company is a Saudi Company; hence, it is subject to Zakat according to Zakat Law and its Implementing Regulations. Based on the foregoing, Plaintiff requests that Defendant's Decision be abolished.

Having presented the statement of claim to Defendant, it answered as follows:

First: Item (Investment in "..... Company" "..... Bank" of "SAR 6,916,000"): Defendant rejected the request to deduct the item in question from Zakat Base, as it represents an investment in shares of foreign companies that are not subject to Zakat under the Implementing Regulations for the Collection of Zakat. In addition, by referring to the financial statements of Company (Bahrain) submitted by Plaintiff, it showed that Plaintiff did not include the Zakat due on the investment within its Zakat Declaration. Moreover, Defendant based its Decision on Paragraph (4/B/Second) of Article (4) of Implementing Regulations for the Collection of Zakat, which stipulates: "....., and attaches audited accounts from a chartered certified accountant in the country of investment, certified by official authorities. If Zakat Payer fails to do so, the investments will not be deducted from the Zakat Base." Based on the foregoing, Defendant adheres to the validity of its procedure.

Second: Item (Investment in "..... Company" of "SAR 80,000"): Defendant rejected the request to deduct the item in question from Zakat Base for not being subject to Zakat, as Defendant found that the Investee Company is not registered with Defendant; hence, it is not subject to Zakat, nor to submit its Declarations to Defendant. In addition, Defendant based its Decision on Paragraph (4/A/Second) of Article (4) of Implementing Regulations for the Collection of Zakat. Based on the foregoing, Defendant adheres to the validity of its procedure.

Third: Item (Profit/Loss of the Year): Defendant rejected Plaintiff's view to apply Article (6.6) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2216) dated 07/07/1440 AH, as the said Regulations applies to fiscal years on or after 01/01/2019 AD. Based on the foregoing, Defendant adheres to the validity of its procedure and requests that Plaintiff's case be dismissed, while preserving its right to present further responses and clarifications to Plaintiff's objection before the Committee. On Sunday 13/06/1443 AH, the Department held its session remotely to consider the Case filed by Plaintiff against Defendant. Having called parties to the Case; 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 .../.../..., issued by Deputy Governor for Legal Affairs. Having asked Plaintiff's Attorney regarding his case, he maintained his statements contained in the statement of claim submitted to General Secretariat of Tax Committees. Having asked Defendant's Representative regarding his response, he maintained his answers previously contained in his Reply submitted to General Secretariat of Tax Committees. Having asked both parties to the Case if they would like to add any statements or documents, they answered "no". Therefore, the Department decided to close pleadings for deliberation.

Grounds: ◇

Having perused the Zakat Law promulgated by Royal Order No. (17/28/577) of 14/03/1376 AH and its Implementing Regulations issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH, as amended, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, as well as other relevant laws and regulations.

In Form: Since Plaintiff aims with its claim to cancel ZATCA Decision regarding zakat assessment for 2018 and given that this dispute falls within the category of zakat disputes. Therefore, it is considered one of the disputes that fall within the jurisdiction of Committee for Determination of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH. Given that 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 documents included in Case file, requests, defense and arguments raised by the parties, the Department found that the dispute involves Defendant's procedure outlined in issuing zakat assessment for 2018. In addition, Plaintiff objects to three items:

First: Item (Investment in "..... Company" "..... Bank" of "SAR 6,916,000"), which includes Plaintiff objection to Defendant's Decision for the non-deduction of foreign investments of 2018 AD from Zakat Base, while Defendant argued that it rejected the request to deduct the item in question from Zakat Base, as it represents an investment in shares of foreign companies that are not subject to Zakat under the Implementing Regulations for the Collection of Zakat.

The Department found that: Based on Article (4.4/B/Second) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, which stipulates: "The following items shall be deducted from the Zakat Base: Investments in establishments outside the Kingdom, in partnership with others, provided that Zakat Payer, within its Zakat Declaration, calculates the Zakat due for these investments in accordance with the rules set forth in these Regulations and pays thereof to the Authority, and attaches audited accounts from a chartered certified accountant in the country of investment, certified by official authorities. If Zakat Payer fails to do so, the investments will not be deducted from the Zakat Base."; and Article (20.3) of the same Implementing Regulations, which stipulates: "The burden of prove of correctness of information in Zakat Payer's Declaration regarding items and any other data rests on Zakat Payer. If Zakat Payer fails to prove correctness of the items in its Declaration, the Authority may disapprove the item whose correctness has not been proven by Zakat Payer or make an Estimated Assessment according to the Authority's opinion based on relevant circumstances and facts and available information."; and by referring to Article



(4.4/B/Second) mentioned above; and since Plaintiff has the right to deduct foreign investment from its Zakat Base, on the condition that it complies with the requirements included therein, which is the submission of audited accounts from a chartered certified accountant in the country of investment to Defendant, for the purpose of calculation the Zakat due on these investment and payment to Defendant, and then deduction of those investments from Plaintiff's Zakat Base to avoid double payment of Zakat; however, if Plaintiff fails to comply with these requirements, the investments will not be deducted from its Zakat Base; and since the dispute is related to documents; and by referring to the documents included in the Case file, wherein Plaintiff submitted the financial statements of Company (Bahrain), certified by official authorities, as Plaintiff stated that, as shown in the financial statements, there is no Zakat due from the shareholders due to the losses that were incurred and others that were deferred during 2018 and 2019 AD; and since Plaintiff has failed to provide proof of Zakat calculation for foreign investments in Company (Bahrain) in accordance with Implementing Regulations for the Collection of Zakat of 1438 AH and its payment to Defendant for those investments based on Article (4.4/B/Second) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, nor did it provide proof of Zakat calculation in accordance with Saudi laws; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

Second: Item (Investment in “..... Company” of “SAR 80,000”), which includes Plaintiff objection to Defendant's Decision for the non-deduction of the investment in Company from Zakat Base, while Defendant argued that it rejected the request to deduct the item in question from Zakat Base for not being subject to Zakat.

The Department found that: Based on Article (4.4/A/Second) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, which stipulates: “Investments in establishments inside the Kingdom, in partnership with others, if such investments are subject to collection of Zakat under these Regulations; however, if investment in such establishments is not subject to collection, then it shall not be deducted from Zakat Base.”; and by taken cognizance of documents, defenses, and pleas raised by parties thereto; and since the dispute lies in deduction of the investment in Company from the Zakat Base; and by referring to the Case file, it was found that the Company's AOA indicated that Plaintiff is a partner in the Company, which is not affected by Defendant claim that the Investee Company submits Zakat Declarations and is not registered with Defendant, as it is a Saudi company under incorporation pursuant to the date of the Company's AOA, which is (16/05/1437 AH); Therefore, the Department satisfies to abolish Defendant's Decision on item in question.

Third: Item (Profit/Loss of the Year): The Department found that: Since Plaintiff did not object to this item within its statement of claim filed before the Committee, while Defendant responded through its Reply by stating that it rejected Plaintiff's view to apply Article (6.6) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2216) dated 07/07/1440 AH, as the said Regulations applies to fiscal years on or after 01/01/2019 AD; and based on Article (41.1/F) of Law of Civil Procedures promulgated by Royal Decree No. (M/1) dated 22/01/1435 AH, which stipulates: “A lawsuit shall be filed with the court by the plaintiff, by means of a statement of claim signed by the plaintiff or his Representative, in an original and as many copies as there are defendants. The statement of claim must include the following: f) subject matter of the suit and plaintiff's claim and evidence.”; and Article (66) of the same Law , which stipulates: “The judge shall ask the plaintiff with regard to necessary aspects of his claim prior to questioning the defendant and may not otherwise proceed with the case. If the plaintiff is unable or unwilling to do so, the judge shall dismiss the case.”; and Article (22.1) of Implementing Regulations for the Collection of Zakat issued by Ministerial



Decision No. (2082) dated 01/06/1438 AH, which stipulates: “Zakat Payer may object to the Authority’s Assessment within sixty (60) days from the date of receipt of the Assessment letter, and his objection must be by virtue of a written and reasoned memorandum submitted to the entity that informed him of the Assessment. If the event of a lapse of period specified to submit an objection at the statutory holiday, the objection shall be acceptable if submitted on the first business day immediately following the statutory holiday.”; and Article (22.4/A) of the same Implementing Regulations, which stipulates: “An objection shall not be formally acceptable in the following cases: (a) If the objection is submitted after the lapse of the statutory period, or if it is not reasoned.”; and since Plaintiff submitted the objection on 04/02/1442 AH within the statutory period set for objection submission without objecting to this item within its statement of claim; Therefore, the Department satisfies to disregard the item in question.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

First: In form:

Accept Plaintiff’s (..... Company, C.R No.) objection to Defendant’s (ZATCA) Decision regarding the Zakat Assessment in question.

Second: On merits:

1. Dismiss Plaintiff’s objection to item (Investment in “..... Company of “SAR 6,916,000”).
2. Abolish Defendant’s on item (Investment in “..... Company” of “SAR 80,000”).
3. Disregard item (Profit/Loss of the Year).

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection
May Allah Blessings and Peace be upon our Prophet Muhammad and his family and companions.

Appellate Committee:

Appeal Committee ruled to uphold the Decision.



Committee for Determination of Tax Violations and Disputes

Third Circuit for Settling Income Tax Violations and Disputes In Riyadh

Decision No. IFR-2022-3922

Case No. Z-26051-2020

Key words:

Zakat – Accounts – Miscalculation of Zakat Base

Abstract

Plaintiff (Zakat Payer) filed this case to abolish Defendant's (ZATCA) Decision regarding Zakat Assessment of 2020 AD, as it included Plaintiff's objection to Defendant's Decision regarding item (Miscalculation of Amount Duplication of 2019 and 2020 AD).

The Department found that Plaintiff submitted a detailed, manually prepared statement showing the miscalculation of the amount duplication, while failing to submit documents supporting its view on the item in question, the VAT Returns to verify the accuracy of its statement, or a proof of payment of Zakat of 1440 AH to consider the Zakat amount.

The Department decided to dismiss Plaintiff's objection.

Instruments:

- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- Article (20.3) of Implementing Regulations for the Collection of Zakat issued by Ministry of Finance's Decision No. (2082) dated 01/06/1438 AH. [https://zatca.gov.sa/ar/RulesRegulations/Taxes/Documents/القرار الوزاري واللائحة.PDF](https://zatca.gov.sa/ar/RulesRegulations/Taxes/Documents/القرار%20الوزاري%20واللائحة.PDF)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)

Facts:

Facts of the case are summarized as follows: Mr., holder of National ID No., has filed a statement of claim objecting to the Decision issued by Zakat, Tax, and Customs Authority regarding the Estimated Zakat Assessment of 1441 AH, wherein Plaintiff stated the following: "Plaintiff has no objection to Defendant exercising its powers under Item (Third) and Item (Fourth) of Rules of Calculating Zakat for Estimate Taxpayers (Previously "Rules for Calculating Zakat on a Deemed Basis"); however, Plaintiff's objection lies in Defendant's miscalculation of the sales amount for the third quarter of 2019 twice, one of which was within the Zakat Base of 1440 AH, and then the same amount was added again within the Zakat Base of 1441 AH. In the event of exclusion of this duplicated amount of (SAR 5,296,603.07) for the sales of Tax Return for the third quarter of 2019 AD, which was previously added within the Zakat Base of 1440 AH; the correct Zakat Base of 1440 AH shall become as follows: [Zakat Base = (SAR 641,868.25), and Required Zakat = (SAR 16,046.73)]. Accordingly, Plaintiff requests Defendant's Representative to re-examine the VAT sales under which the Estimated Zakat Base of



1440 AH and 1441 AH was calculated, which will clarify the existence of the duplicate sales amount for the third quarter of 2019 AD.”

Having presented the statement of claim to Defendant, it answered as follows: Defendant stated that its Decision came in compliance with Item (Third) and Item (Fourth) of Rules of Calculating Zakat for Estimate Taxpayers (Previously “Rules for Calculating Zakat on a Deemed Basis”) issued by Minister of Finance's Decision No. (852) dated 28/02/1441 AH, as the Assessment was made based on the VAT sales as follows: [Zakat Base = (SAR 2,098,435.2), and Required Zakat = (SAR 52,460.88)]. Accordingly, Defendant has exercised its powers granted under these Rules, which entitles Defendant to make an Estimated Assessment on Plaintiff as per the information and data reached. In addition, Defendant may, pursuant to the powers granted under these Rules, calculate the Zakat Base that fairly reflects the true nature of Plaintiff's activity in the light of circumstances and facts related to the situation and information available on Plaintiff, either through documented evidence provided by Plaintiff, or through direct and continuous reference to any information directly related to Plaintiff that is kept by a third party showing the size of Plaintiff's imports, contracts, employment, loans, and subsidies obtained. Based on the foregoing, Defendant adheres to the validity of its Decision, as it was based on valid legal reasons stipulated in its Grounds, and requests that Plaintiff's case be dismissed, while preserving its right to present further responses and clarifications to Plaintiff's objection before the Committee.

On Sunday 13/06/1443 AH, the Department held its session remotely to consider the Case filed by Plaintiff against Defendant. Having called parties to the Case; Mr., holder of National ID No., appeared in his capacity as the Legal Representative of Plaintiff's Institution, by virtue of its Commercial Registration included in the Case file; and Mr., holder of National ID No., appeared in his capacity as Defendant's (ZATCA) Representative, by virtue of Authorization No. dated .../.../..., issued by Deputy Governor for Legal Affairs. Having asked Plaintiff's Representative regarding his case, he maintained his statements contained in the statement of claim submitted to General Secretariat of Tax Committees. Having asked Defendant's Representative regarding his response, he maintained his answers previously contained in his Reply submitted to General Secretariat of Tax Committees. He also submitted a memorandum that was deposited in the Case file. Having presented the memorandum to Plaintiff, he requested a continuance for response. Accordingly, the Department decided to give Plaintiff's Representative a continuance until the end of Sunday, 23/01/2022 AD, to review and reply to Defendant's memorandum, and to postpone the continuation of the hearing of the Case to the session on Wednesday, 09/02/2022 AD.

On Wednesday 08/07/1443 AH, the Department held its session remotely to consider the case. Having called parties to the Case; Mr., holder of National ID No., appeared in his capacity as the Legal Representative of Plaintiff's Institution, by virtue of its Commercial Registration included in the Case file; and Mr., holder of National ID No., appeared in his capacity as Defendant's (ZATCA) Representative, by virtue of Authorization No. dated .../.../..., issued by Deputy Governor for Legal Affairs. Having asked parties to the Case whether they had further statements, they responded with denial. Therefore, the Department decided to close pleadings for deliberation.

Grounds:

Having perused the Zakat Law promulgated by Royal Order No. (17/28/577) of 14/03/1376 AH and its Implementing Regulations issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH, as amended, and the Income Tax Law



promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, as well as other relevant laws and regulations.

In Form: Since Plaintiff filed the case to abolish Defendant's Decision regarding the Estimated Zakat Assessment of 1441 AH, and since this dispute is a Zakat dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Decree No. (26040) of 21/04/1441 AH, and since the Case was filed by a person with capacity, and within the period prescribed by Law, it is then accepted in form.

On Merits: Having taken cognizance of documents included in Case file, requests, defenses, and pleas raised by parties thereto, the Department found that the dispute lies in Plaintiff's objection to Defendant's Decision regarding issuance of Zakat Assessment of 1441 AH.

The Department also found that: Based on Item (Third) of Rules of Calculating Zakat for Estimate Taxpayers (Previously "Rules for Calculating Zakat on a Deemed Basis"), which stipulates: "The Zakat base of Zakat payer subject to these rules shall be evaluated by identifying capital that is appropriate to the size of Zakat payer's activity, according to the following equation: $[(Sales/8) + (Sales*15\%)]$, and not less than capital set forth in the commercial registration, required license or other documents enabling the Authority from quantifying the capital."; Item (Fourth) of Rules of Calculating Zakat for Estimate Taxpayers (Previously "Rules for Calculating Zakat on a Deemed Basis"), which stipulates: "Sales set forth in Item (3) shall not be less than sales disclosed in VAT return, which is the gross sales of Zakat payer's financial year. If the Zakat payer does not have sales registered in VAT return, the sales shall be evaluated as per the following criteria; whichever is greater: 1."; and Article (20.3) of Implementing Regulations for the Collection of Zakat, which stipulates: "The burden of prove of correctness of information in Zakat Payer's Declaration regarding items and any other data rests on Zakat Payer. If Zakat Payer fails to prove correctness of the items in its Declaration, the Authority may disapprove the item whose correctness has not been proven by Zakat Payer or make an Estimated Assessment according to the Authority's opinion based on relevant circumstances and facts and available information."; and since Plaintiff submitted a detailed, manually prepared statement showing the miscalculation of the amount duplication in 1440 AH and 1441 AH in calculating the amount of the Zakat due of 1441 AH, while failing to submit documents supporting its view on the item in question, the VAT Returns to verify the accuracy of its statement, or a proof of payment of Zakat of 1440 AH to consider the Zakat amount; and by reviewing the manually prepared schedule submitted by Plaintiff, it showed that Plaintiff did not consider the third quarter of 2020 AD, as Plaintiff's financial period is from 01/01/1440 AH to 29/12/1441 AH, corresponding to 31/08/2019 AD until 19/08/2020 AD. Accordingly, the Zakat is due on a portion of sales of the third quarter of 2020 AD; and since Plaintiff's calculation is inaccurate; Therefore, the Department satisfies to dismiss Plaintiff's objection.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Accept Plaintiff's (Mr., holder of National ID No.) objection to Defendant's (ZATCA) Decision in form and dismiss the same on merits.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day



following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection
May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.

Appellate Committee:

Appeal Committee ruled to uphold the Decision.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IFR-2022-753

Case No. Z-2020-26777

Key words:

Zakat – Accounts – Bad Debts – Import Profit

Abstract

Plaintiff (Zakat Payer) filed this case to abolish Defendant's (ZATCA) Decision regarding Zakat Assessment of 2012 AD, as it included Plaintiff's objection to Defendant's Decision regarding items (Bad Debts) and (Import Profit).

The Department found that:

As for item (Bad Debts); Plaintiff has failed to provide evidence that the conditions for deducting bad debts were met, such as a chartered accountant's certificate stating that the debts were written off.

As for item (Import Profit); Plaintiff has failed to provide the necessary conformity to clarify the reasons and justifications for the import differences, nor did it provide the documents supporting its statement of claim filed against Defendant during the objection period.

The Department decided to dismiss Plaintiff's objection.

Instruments:

- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- Article (5.3), Article (6.2), and Article (20.3) [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)

Facts:

Facts of the case are summarized as follows: Mr., holder of National ID No., in his capacity as Plaintiff's (..... Company, C.R. No.) Legal Representative, by virtue of its Partners' Decision; has filed a statement of claim objecting to the Decision issued by Zakat, Tax, and Customs Authority regarding Zakat Assessment of 2012 AD, which centers in items (Bad Debts) and (Import Profit).

Having presented the statement of claim to Defendant, it answered as follows:

First: Item (Bad Debts of 2011 to 2016 AD): As for years from 2011 to 2015 AD, Defendant (ZATCA) did not approve the writing-off of bad debts due to the lack of conditions for their deduction, based on Article (5) of Implementing Regulations for the Collection of



Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH. As for the year 2016 AD, Defendant accepted Plaintiff's objection.

Second: Item (Import Profit of 2011 to 2016 AD): Defendant compared the imports included in Plaintiff's Declaration and the financial statements with the imports included in Customs Declaration. Due to the existence of differences and Plaintiff's failure to submit the supporting documents, its objection was rejected based on Article (20) of Implementing Regulations for the Collection of Zakat.

Third: Item (Donations of 2015 and 2016 AD): As for the year 2015 AD, Defendant rejected the deduction of the item in question from Zakat Base due to Plaintiff's failure to submit the supporting documents, based on Article (5) of Implementing Regulations for the Collection of Zakat. As for the year 2016 AD, Defendant partially accepted Plaintiff's objection by (SAR 10,000). Based on the foregoing, Defendant requests that Plaintiff's case be dismissed, while preserving its right to present further responses and clarifications until before pleadings closure.

On Sunday 10/08/1443 AH, the Department held its session remotely to consider the Case filed by Plaintiff against Defendant, wherein Mr., holder of National ID No., appeared in his capacity as Plaintiff's Representative, by virtue of its Articles of Association; and Mr., holder of National ID No., appeared in his capacity as Defendant's (ZATCA) Representative, by virtue of Authorization No. dated 19/05/1441 AH, issued by Deputy Governor for Legal Affairs. Having asked Plaintiff's Representative regarding his case, he maintained his statements contained in the statement of claim submitted to General Secretariat of Tax Committees. He also stated that Plaintiff had contacted Defendant's internal settlement committee, and that the parties hereto had reached a final settlement regarding this case. In addition, he submitted copies of a number of emails, which were deposited in the Case file; copies of which were provided to Defendant's Representative. Having asked Defendant's Representative regarding his response, he maintained his answers previously contained in his Reply and requested the Department not to accept any new documents that have not been submitted to Defendant during the examination and objection stage. He also requested continuance to check with Defendant's internal settlement committee to verify Plaintiff's Representative statement in this hearing and provide the Department with a response. Accordingly, the Department decided to postpone the continuation of the hearing of the Case to the session on Tuesday, 12/08/1443 AH.

On Tuesday 12/08/1443 AH, the Department held its session remotely to consider the Case filed by Plaintiff against Defendant, wherein Mr., holder of National ID No., appeared in his capacity as Plaintiff's Representative, by virtue of its Articles of Association; and Mr., holder of National ID No., appeared in his capacity as Defendant's (ZATCA) Representative, by virtue of Authorization No. dated 19/05/1441 AH, issued by Deputy Governor for Legal Affairs. Having asked Defendant's Representative regarding the Department's request at the previous hearing, he submitted a copy of an email and stated that this email is addressed to Plaintiff from Defendant's internal settlement committee, which stated that it was impossible to reach a settlement. This email was deposited in the Case file, a copy of which was provided to Plaintiff's Representative. Having asked Plaintiff's Representative regarding his response to Defendant's Representative submission and whether he had evidence that the Plaintiff and Defendant's internal committee had reached a final settlement, he stated that he had nothing further to add beyond his previous submission. Having asked both parties if they had further statements, they responded with denial. Therefore, the Department decided to close pleadings for deliberation.

Grounds:





Having perused the Zakat Law promulgated by Royal Order No. (17/28/577) of 14/03/1376 AH and its Implementing Regulations issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH, as amended, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, as well as other relevant laws and regulations.

In Form: Since Plaintiff filed the case to abolish Defendant's Decision regarding Zakat Assessment of 2012 AD, and since this dispute is a Zakat dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Decree No. (26040) of 21/04/1441 AH, and since the Case was filed by a person with capacity, and within the period prescribed by Law, it is then accepted in form.

On Merits: Having taken cognizance of documents included in Case file, requests, defenses, and pleas raised by parties thereto, the Department found that the dispute lies in Plaintiff's objection to Defendant's Decision regarding issuance of Zakat Assessment of 2012 AD, which included the following:

First: Item (Bad Debts), which includes Plaintiff objection to Defendant's Decision for the non-approval of the write-off of bad debts in the amount of (SAR 21,387) from Zakat Base of 2012 AD, as Plaintiff stated that these bad debts were a consequence of sales from prior periods on which Zakat had been duly paid, while Defendant argued that its Decision came in compliance with Implementing Regulations for the Collection of Zakat. The Department found that: Based on the following Articles of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH: 1. Article (5.3), which stipulates: "Bad debts are expenses that may be deducted in accordance with the following controls: a. Debts should have been previously declared within revenues in the year the revenue was generated. b. Debts shall be the result of carrying out activities. c. The Zakat Payer shall provide a certificate from a certified public accountant licensed to operate in the Kingdom, confirming that the debts are written-off by resolution of the authorized person. d. The debts shall not be payable by bodies associated with the Zakat Payer. (e) If Zakat Payer adheres to disclose its income debts once they are declared."; 2. Article (6.2), which relates to expenses that may not be deducted, as it stipulates: "Expenses that Zakat Payer fails to prove by supporting documents or other evidential matter acceptable to the Authority may not be deducted."; and 3. Article (20.3), which stipulates: "The burden of prove of correctness of information in Zakat Payer's Declaration regarding items and any other data rests on Zakat Payer. If Zakat Payer fails to prove correctness of the items in its Declaration, the Authority may disapprove the item whose correctness has not been proven by Zakat Payer or make an Estimated Assessment according to the Authority's opinion based on relevant circumstances and facts and available information."; and by taken cognizance of documents submitted by parties thereto; and since the dispute is related to documents; and since Plaintiff has failed to provide evidence that the conditions for deducting bad debts were met, such as a chartered accountant's certificate stating that the debts were written off; Therefore, the Department satisfies to dismiss Plaintiff's objection.

Second: Item (Import Profit), which includes Plaintiff objection to Defendant's Decision for the addition of the import differences in the amount of (SAR 7,167,806) to the Zakat Base of 2012 AD, as Plaintiff stated that the costs included in the financial statements are actual costs and supported by documents, while Defendant argued that its Decision came in compliance with Implementing Regulations for the Collection of Zakat.

The Department found that: Based on Article (20.3) of Implementing Regulations for the Collection of Zakat issued by Ministry of Finance's Decision No. (2082) dated 01/06/1438



AH, which stipulates: “The burden of prove of correctness of information in Zakat Payer’s Declaration regarding items and any other data rests on Zakat Payer. If Zakat Payer fails to prove correctness of the items in its Declaration, the Authority may disapprove the item whose correctness has not been proven by Zakat Payer or make an Estimated Assessment according to the Authority’s opinion based on relevant circumstances and facts and available information.”; and by taken cognizance of documents submitted by parties thereto; and since the Import Declaration issued by Saudi Customs is considered a substantial evidence from an impartial third party; and since Defendant’s procedure to amend Plaintiff’s business outcome is due to the existence of differences in the value of the imports included in Plaintiff’s Declaration compared to the imports included in Customs Declaration; and since Plaintiff has failed to provide the necessary conformity to clarify the reasons and justifications for the import differences, nor did it provide the documents supporting its statement of claim filed against Defendant during the objection period; Therefore, the Department satisfies to dismiss Plaintiff’s objection. For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss Plaintiff’s (..... Company, TIN No.) objection to Defendant’s (ZATCA) Decision regarding the Zakat Assessment in question.

This Decision was delivered in presence of the parties. The Department set Thursday, 06/09/1443 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if both parties do not file an objection.

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

Appellate Committee:

Appeal Committee ruled to uphold the Decision.



Committee for Determination of Tax Violations and Disputes

Third Circuit for Settling Income Tax Violations and Disputes In Riyadh

Decision No. IFR-2022-755

Case No. 26491-2020-Z

Key words:

Zakat – Accounts – Bad Debts – Import Profit – Donations

Abstract

Plaintiff (Zakat Payer) filed this case to abolish Defendant's (ZATCA) Decision regarding Zakat Assessment of 2015 AD, as it included Plaintiff's objection to Defendant's Decision regarding items (Bad Debts), (Import Profit) and (Donations).

The Department found that: As for item (Bad Debts); Plaintiff has failed to provide evidence that the conditions for deducting bad debts were met, such as a chartered accountant's certificate stating that the debts were written off.

As for item (Import Profit); Plaintiff has failed to provide the necessary conformity to clarify the reasons and justifications for the import differences, nor did it provide the documents supporting its statement of claim filed against Defendant during the objection period.

As for item (Donations); the dispute is related to documents, as Plaintiff failed to provide proof of payment of the donations in question, and that the donations that may be deducted from Zakat Base are the documented donations after verifying their validity and seriousness. The Department decided to dismiss Plaintiff's objection.

Instruments:

- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- Article (5.3), Article (5.4), Article (6.2), and Article (20.3) [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)

Facts:

Facts of the case are summarized as follows: Mr., holder of National ID No., in his capacity as Plaintiff's (..... Company, C.R. No.) Legal Representative, by virtue of its Partners' Decision; has filed a statement of claim objecting to the Decision issued by Zakat, Tax, and Customs Authority regarding Zakat Assessment of 2015 AD, which centers in items (Bad Debts) and (Import Profit).

Having presented the statement of claim to Defendant, it answered as follows:

First: Item (Bad Debts of 2011 to 2016 AD): As for years from 2011 to 2015 AD, Defendant (ZATCA) did not approve the writing-off of bad debts due to the lack of conditions for their deduction, based on Article (5) of Implementing Regulations for the Collection of



Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH. As for the year 2016 AD, Defendant accepted Plaintiff's objection.

Second: Item (Import Profit of 2011 to 2016 AD): Defendant compared the imports included in Plaintiff's Declaration and the financial statements with the imports included in Customs Declaration. Due to the existence of differences and Plaintiff's failure to submit the supporting documents, its objection was rejected based on Article (20) of Implementing Regulations for the Collection of Zakat.

Third: Item (Donations of 2015 and 2016 AD): As for the year 2015 AD, Defendant rejected the deduction of the item in question from Zakat Base due to Plaintiff's failure to submit the supporting documents, based on Article (5) of Implementing Regulations for the Collection of Zakat. As for the year 2016 AD, Defendant partially accepted Plaintiff's objection by (SAR 10,000). Based on the foregoing, Defendant requests the Department to dismiss Plaintiff's case, while preserving its right to present further responses and clarifications until before pleadings closure.

On Sunday 10/08/1443 AH, the Department held its session remotely to consider the Case filed by Plaintiff against Defendant, wherein Mr., holder of National ID No., appeared in his capacity as Plaintiff's Representative, by virtue of its Articles of Association; and Mr., holder of National ID No.. appeared in his capacity as Defendant's (ZATCA) Representative, by virtue of Authorization No. dated .../.../..., issued by Deputy Governor for Legal Affairs. Having asked Plaintiff's Representative regarding his case, he maintained his statements contained in the statement of claim submitted to General Secretariat of Tax Committees. He also stated that Plaintiff had contacted Defendant's internal settlement committee, and that the parties hereto had reached a final settlement regarding this case. In addition, he submitted copies of a number of emails, which were deposited in the Case file; copies of which were provided to Defendant's Representative. Having asked Defendant's Representative regarding his response, he maintained his answers previously contained in his Reply and requested the Department not to accept any new documents that have not been submitted to Defendant during the examination and objection stage. He also requested continuance to check with Defendant's internal settlement committee to verify Plaintiff's Representative statement in this hearing and provide the Department with a response. Accordingly, the Department decided to postpone the continuation of the hearing of the Case to the session on Tuesday, 12/08/1443 AH.

On Tuesday 12/08/1443 AH, the Department held its session remotely to consider the Case filed by Plaintiff against Defendant, wherein Mr., holder of National ID No., appeared in his capacity as Plaintiff's Representative, by virtue of its Articles of Association; and Mr., holder of National ID No., appeared in his capacity as Defendant's (ZATCA) Representative, by virtue of Authorization No. dated .../.../..., issued by Deputy Governor for Legal Affairs. Having asked Defendant's Representative regarding the Department's request at the previous hearing, he submitted a copy of an email and stated that this email is addressed to Plaintiff from Defendant's internal settlement committee, which stated that it was impossible to reach a settlement. This email was deposited in the Case file, a copy of which was provided to Plaintiff's Representative. Having asked Plaintiff's Representative regarding his response to Defendant's Representative submission and whether he had evidence that the Plaintiff and Defendant's internal committee had reached a final settlement, he stated that he had nothing further to add beyond his previous submission. Having asked both parties if they had further statements, they answered with denial. Therefore, the Department decided to close pleadings for deliberation.

Grounds:





Having perused the Zakat Law promulgated by Royal Order No. (17/28/577) of 14/03/1376 AH and its Implementing Regulations issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH, as amended, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, as well as other relevant laws and regulations.

In Form: Since Plaintiff filed the case to abolish Defendant's Decision regarding Zakat Assessment of 2015 AD, and since this dispute is a Zakat dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Decree No. (26040) of 21/04/1441 AH, and since the Case was filed by a person with capacity, and within the period prescribed by Law, it is then accepted in form.

On Merits: Having taken cognizance of documents included in Case file, requests, defenses, and pleas raised by parties thereto, the Department found that the dispute lies in Plaintiff's objection to Defendant's Decision regarding issuance of Zakat Assessment of 2015 AD, which included the following:

First: Item (Bad Debts), which includes Plaintiff objection to Defendant's Decision for the non-approval of the write-off of bad debts in the amount of (SAR 66,729) from Zakat Base of 2015 AD, as Plaintiff stated that these bad debts were a consequence of sales from prior periods on which Zakat had been duly paid, while Defendant argued that its Decision came in compliance with Implementing Regulations for the Collection of Zakat. The Department found that: Based on the following Articles of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH:

1. Article (5.3), which stipulates: "Bad debts are expenses that may be deducted in accordance with the following controls: (a) If bad debts were previously stated in Zakat Payer's Declarations as part of its revenues in the relevant year in which the revenue was due. b. Debts shall be the result of carrying out activities. (c) If Zakat Payer presents a certificate from its chartered accountant indicating writing-off of debts from the books pursuant to a Decision by the competent authority. (d) If bad debts are not due on parties related to Zakat Payer. (e) If Zakat Payer adheres to disclose its income debts once they are declared.";

2. Article (6.2), which relates to expenses that may not be deducted, as it stipulates: "Expenses that Zakat Payer fails to prove by supporting documents or other evidential matter acceptable to the Authority may not be deducted."; and

3. Article (20.3), which stipulates: "The burden of prove of correctness of information in Zakat Payer's Declaration regarding items and any other data rests on Zakat Payer. If Zakat Payer fails to prove correctness of the items in its Declaration, the Authority may disapprove the item whose correctness has not been proven by Zakat Payer or make an Estimated Assessment according to the Authority's opinion based on relevant circumstances and facts and available information."; and by taken cognizance of documents submitted by parties thereto; and since the dispute is related to documents; and since Plaintiff has failed to provide evidence that the conditions for deducting bad debts were met, such as a chartered accountant's certificate stating that the debts were written off; Therefore, the Department satisfies to dismiss Plaintiff's objection.

Second: Item (Import Profit), which includes Plaintiff objection to Defendant's Decision for the addition of the import differences in the amount of (SAR 745,076) to the Zakat Base of 2015 AD, as Plaintiff stated that the costs included in the financial statements are actual costs and supported by documents, while Defendant argued that its Decision came in compliance with Implementing Regulations for the Collection of Zakat. The Department found that: Based on Article (20.3) of Implementing Regulations for the Collection of



Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, which stipulates: “The burden of prove of correctness of information in Zakat Payer’s Declaration regarding items and any other data rests on Zakat Payer. If Zakat Payer fails to prove correctness of the items in its Declaration, the Authority may disapprove the item whose correctness has not been proven by Zakat Payer or make an Estimated Assessment according to the Authority’s opinion based on relevant circumstances and facts and available information.”; and by taken cognizance of documents submitted by parties thereto; and since the Import Declaration issued by Saudi Customs is considered a substantial evidence from an impartial third party; and since Defendant’s procedure to amend Plaintiff’s business outcome is due to the existence of differences in the value of the imports included in Plaintiff’s Declaration compared to the imports included in Customs Declaration; and since Plaintiff has failed to provide the necessary conformity to clarify the reasons and justifications for the import differences, nor did it provide the documents supporting its statement of claim filed against Defendant during the objection period; Therefore, the Department satisfies to dismiss Plaintiff’s objection.

Third: Item (Donations), which includes Plaintiff objection to Defendant’s Decision for the non-approval of the donation expense in the amount of (SAR 168,342) from Zakat Base of 2015 AD, while Defendant argued that its Decision came in compliance with Implementing Regulations for the Collection of Zakat.

The Department found that: Based on the following Articles of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH:

1. Article (5.4), which stipulates: “Donations are considered expenses that may be deducted whenever the supporting documents are submitted, and their seriousness is verified.”;
2. Article (6.2), which relates to expenses that may not be deducted, as it stipulates: “Expenses that Zakat Payer fails to prove by supporting documents or other evidential matter acceptable to the Authority may not be deducted.”; and
3. Article (20.3), which stipulates: “The burden of prove of correctness of information in Zakat Payer’s Declaration regarding items and any other data rests on Zakat Payer. If Zakat Payer fails to prove correctness of the items in its Declaration, the Authority may disapprove the item whose correctness has not been proven by Zakat Payer or make an Estimated Assessment according to the Authority’s opinion based on relevant circumstances and facts and available information.”; and by taken cognizance of documents submitted by parties thereto; and since the dispute is related to documents; and since Plaintiff has failed to provide proof of payment of the donations in question; and since the donations that may be deducted from Zakat Base are the documented donations after verifying their validity and seriousness; Therefore, the Department satisfies to dismiss Plaintiff’s objection.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss Plaintiff’s (..... Company, TIN No.) objection to Defendant’s (ZATCA) Decision regarding the Zakat Assessment in question.

This Decision was delivered in presence of the parties. The Department set Thursday, 06/09/1443 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if both parties do not file an objection.

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



Appellate Committee:

Appeal Committee ruled to uphold the Decision.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IFR-2022-804

Case No. Z-2021-62353

Key words:

Zakat – Estimated Assessment – Lack of Commercial Activity

Abstract

Plaintiff (Zakat Payer) filed this case to abolish Defendant's (ZATCA) Decision regarding Zakat Assessment of 2017 to 2019 AD, as it included Plaintiff's objection to Defendant's Decision regarding the Estimated Zakat Assessment, wherein Plaintiff claimed that it did not practice any commercial, service, or industrial business or activity from the date of issuance of the commercial registration until the date of cancellation, and requested that it should not be subject to Zakat.

The Department found that Plaintiff has submitted evidence showing that it did not practice the activity from the date of expiration of the commercial registration, while Defendant has failed to provide evidence of Plaintiff's practice of commercial activity or disprove Plaintiff's claim, despite its ability to access Plaintiff's data with many relevant authorities.

Instruments:

- Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. (26040) dated 21/04/1441 AH
- Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH
- Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH
 - Article (13.6/A) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. (2082) dated 01/06/1438 AH, and Article (10) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. (2216) dated 07/07/1440 AH
 - Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. (1535) dated 11/06/1425 AH.

Facts:

Facts of the case are summarized as follows: Mr., holder of National ID No., in his capacity as Plaintiff's (Mr., holder of National ID No., the Owner of, C.R. No.) Attorney, under POA No. dated .../.../..., issued by Powers of Attorney e-services at the Ministry of Justice; has filed a statement of claim objecting to the Decision issued by Zakat, Tax, and Customs Authority regarding the Estimated Zakat Assessment of 1438 to 1440 AH. Having presented the statement of claim to Defendant, it answered with a memorandum stating that:

“The case is inadmissible in form for the lapse of the statutory period for accepting the objection pursuant to Article (3) of Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. (26040) dated 21/04/1441 AH. As on merits of case, Defendant Decision is valid and sound, and that burden of proofing the contrary is upon



Plaintiff. Defendant also stated that its Decision came in compliance with Item (Third) and Item (Fourth) of Rules of Calculating Zakat for Estimate Taxpayers (Previously “Rules for Calculating Zakat on a Deemed Basis”) issued by Minister of Finance's Decision No. (852) dated 28/02/1441 AH, as the Zakat Base was calculated based on the capital registered in Commercial Registration No., which is (SAR 300,000), and that the commercial registration was cancelled on 25/06/1442 AH “after the completion of Zakat Year”. Based on the foregoing, Defendant requests that Plaintiff's case be dismissed, while preserving its right to present further responses and clarifications before pleading closure.”

On Sunday 10/08/1443 AH, the Department held its session remotely to consider the Case filed by Plaintiff against Defendant, wherein Mr., holder of National ID No., in his capacity as Plaintiff's Attorney, under POA No. dated .../.../..., issued by Powers of Attorney e-services at the Ministry of Justice; and Mr., holder of National ID No., appeared in his capacity as Defendant's (ZATCA) Representative, by virtue of Authorization No. dated .../.../..., issued by Deputy Governor for Legal Affairs and Compliance. Having asked Plaintiff's Representative regarding his case, he maintained his statements contained in the statement of claim submitted to General Secretariat of Tax Committees. Having asked Defendant's Representative regarding his response, he maintained the statements previously contained in Defendant's Reply, and requested the Department not to accept any new documents that have not been submitted to Defendant during the examination and objection stage. Having asked parties to the Case whether they had further statements, they responded with denial.

Grounds:

Having perused the Zakat Law promulgated by Royal Order No. (17/28/577) of 14/03/1376 AH and its Implementing Regulations issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH, as amended, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, as well as other relevant laws and regulations.

In Form: Since Plaintiff filed the case to abolish Defendant's Decision regarding Zakat Assessment of 1438 to 1440 AH, and since this dispute is a Zakat dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Decree No. (26040) of 21/04/1441 AH, and since the Case was filed by a person with capacity, and within the period prescribed by Law, it is then accepted in form.

On Merits: Having taken cognizance of documents included in Case file, requests, defenses, and pleas raised by parties thereto, the Department found that the dispute lies in Plaintiff's objection to Defendant's Decision regarding the Estimated Zakat Assessment of 1438 to 1440 AH, as Plaintiff claimed that it did not practice any commercial activity, and requested that Defendant's Decision in question be abolished, while Defendant argued that its Decision was based on Item (Third) and Item (Fourth) of Rules of Calculating Zakat for Estimate Taxpayers (Previously “Rules for Calculating Zakat on a Deemed Basis”) issued by Minister of Finance's Decision No. (852) dated 28/02/1441 AH, as the Zakat Base was calculated based on the capital registered in Commercial Registration No., which is (SAR 300,000), and that the commercial registration was cancelled on 25/06/1442 AH “after the completion of Zakat Year.”



The Department found that: Based on Article (13.6/A) of Implementing Regulations for the Collection of Zakat, issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, which stipulates: “Estimated Zakat Base consists of the following unless Zakat Payer’s Declaration shows a Larger Zakat Base: (a) The working capital, determined by any possible means, whether from the commercial registration, the company’s contracts and memorandum of association, or any other supporting document. If the working capital differs from those documents, the Authority may determine the capital in proportion to the size of activity and the number of capital cycles according to custom in each industry, trade, or business.”; and Article (10) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance’s Decision No. (2216) dated 07/07/1440 AH, which relates to the calculation of Zakat in on an estimated basis, as it stipulates: “The Authority shall apply the Estimated Assessment to every Zakat Payer who does not have business books that clarify its activity, nor is obliged to issue financial statements under the relevant laws, regulations, and rules in force, taking into consideration the following: 3. The Authority may take into consideration any available information that contradicts information provided by Zakat Payer. 4. The Authority may use Zakat Payer’s data it possesses upon calculating the Zakat on an estimated basis.”; and by taken cognizance of documents and data submitted by parties thereto; and since Plaintiff has submitted the Commercial Registration No., which expired on 07/07/1439 AH and was cancelled on 25/06/1442 AH; and since Plaintiff claimed that it did not practice any commercial, service, or industrial business or activity from the date of issuance of the commercial registration until the date of cancellation, and requested that it should not be subject to Zakat; and since Plaintiff has submitted evidence showing that it did not practice the activity from the date of expiration of the commercial registration; hence, the expiration and non-renewal of the commercial registration represent evidence establishing the lack of activity by Plaintiff; and since Defendant’s acknowledgment of the cancellation of Plaintiff’s commercial registration on 25/06/1442 AH is consistent with Plaintiff’s claim regarding the same; and since the Jurisprudential Rule stipulates: “Acknowledgment is Evidence against the Declarant”; and since Defendant has failed to provide evidence of Plaintiff’s practice of commercial activity or disprove Plaintiff’s claim, despite its ability to access Plaintiff’s data with many relevant authorities; Therefore, the Department satisfies to abolish Defendant’s Decision for failure to provide evidence of Plaintiff’s practice of commercial activity and, by extension, invalidity of its Decision as to conclusions it had in this regard.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Abolish Defendant’s (ZATCA) Decision against Plaintiff (....., TIN No.) regarding the Zakat Assessment in question.

This Decision was delivered in presence of Parties. The Department has set the date of (Tuesday, 11/09/1443 AH) as the date for receipt of the Decision copy. 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.

Appellate Committee:

Appeal Committee ruled to uphold the Decision.



Committee for Determination of Tax Violations and Disputes

Third Circuit for Settling Income Tax Violations and Disputes In Riyadh

Decision No. IFR-2022-3640

Case No. 55466-2021-Z

Key words:

Zakat – Accounts – Prepaid Deferred Expenses

Abstract

Plaintiff (Zakat Payer) filed this case to abolish Defendant's (ZATCA) Decision regarding Zakat Assessment of 2015 AD, as it included Plaintiff's objection to Defendant's Decision for the non-deduction of prepaid deferred expenses in the amount of (SAR 114,560,36) from Zakat Base.

The Department found that Plaintiff has failed to submit the financial statements and the documentary evidence of those expenses to figure out their details and nature for clarification of their Zakat calculation and validation. The Department decided to dismiss Plaintiff's objection.

Instruments:

- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- Article (4.7/Second) of Implementing Regulations for the Collection of Zakat issued by Ministry of Finance's Decision No. (2082) dated 01/06/1438 AH. [https://zatca.gov.sa/ar/RulesRegulations/Taxes/Documents/القرار الوزاري واللائحة.PDF](https://zatca.gov.sa/ar/RulesRegulations/Taxes/Documents/القرار%20الوزاري%20واللائحة.PDF)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)

Facts:

Facts of the case are summarized as follows: Mr.,holder of National ID No., in his capacity as Plaintiff's (..... 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 regarding Zakat Assessment of 2015 AD, which centers in item (Deduction of prepaid deferred expenses in the amount of "SAR 113,886,625" of 2016 AD and the amount of "SAR 183,221,000" of 2017 AD from Zakat Base), wherein Plaintiff objects to Defendant's Decision for the non-deduction of these expenses from Zakat Base, claiming that they are actual expenses that were duly cleared from the company's financial liability and were registered as prepaid expenses in accordance with the accounting standards; hence, they are considered deferred expenses and pre-operational or incorporation expenses that must be deducted from Zakat Base. In addition, they must not be considered expenses that may not be deducted for the purposes of Zakat calculation, as stipulated in Article (6) of Implementing Regulations for the Collection of Zakat. Moreover, these expenses contribute to generating revenue for a number of years; hence, they are considered incorporation expenses and must be deducted



from Zakat Base pursuant to Defendant's Circular No. (9/1973) dated 04/04/1428 AH. Furthermore, the Decision No. (IR-2020-35) delivered by the First Appellate Department for Income Tax Violations and Disputes upheld the company's motion to deduct these expenses from Zakat Base. Based on the foregoing, Plaintiff requests that Defendant's Decision be abolished.

Having presented the statement of claim to Defendant, it answered as follows: "Defendant did not approve the deduction of the item in question from Zakat Base, as it is not among deductible items set forth in Article (4) of Implementing Regulations for the Collection of Zakat of 1438 AH. In addition, the accounting treatment according to the accrual basis requires considering the prepaid expenses as an item of the current assets and then amortized periodically, while charging the income to the amortization expense annually pursuant to the principle of matching the expense with the income, which indicates that this expense was considered when calculating the Zakat Base, as the net income is among components of the Zakat Base. Accordingly, the entire balance of the deferred expenses should not be deducted in from Zakat Base, but rather the periodically realized expense is deducted. Moreover, the item in question is not considered among elements or items that are deducted from the Zakat Base under the provisions of Implementing Regulations for the Collection of Zakat of 1438 AH. Accordingly, Defendant rejected Plaintiff's objection to the item in question. Furthermore, Defendant's Decision was upheld by Decision No. (1325) of 1434 AH. Based on the foregoing, Defendant adheres to the validity of its procedure and requests that Plaintiff's case be dismissed, while preserving its right to present further responses and clarifications to Plaintiff's objection before the Committee." On Tuesday 14/07/1443 AH, the Department held its session remotely to consider the Case filed by Plaintiff against Defendant. Having called parties to the Case; 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 .../.../..., issued by Deputy Governor for Legal Affairs. Having asked Plaintiff's Attorney regarding his case, he maintained his statements contained in the statement of claim submitted to General Secretariat of Tax Committees. Having asked Defendant's Representative regarding his reply, he maintained his answers previously contained in his Reply submitted to General Secretariat of Tax Committees. Having asked both parties to the Case if they had further statements or documents, they responded with denial. Accordingly, the Department decided to postpone the continuation of the hearing of the Case to the session on Monday, 20/07/1443 AH. On Monday 20/07/1443 AH, the Department held its session remotely to consider the Case filed by Plaintiff against Defendant. Having called parties to the Case; 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 .../.../..., issued by Deputy Governor for Legal Affairs. Having asked parties to the Case whether they had further statements, they responded with denial. Therefore, the Department decided to close pleadings for deliberation.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax



Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff filed the case to abolish Defendant's Decision regarding Zakat Assessment of 2015 AD, and since this dispute is a Zakat dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Decree No. (26040) of 21/04/1441 AH, and since the Case was filed by a person with capacity, and within the period prescribed by Law, it is then accepted in form. **On Merits:** Having taken cognizance of documents included in Case file, requests, defenses, and pleas raised by parties thereto, the Department found that the dispute lies in Plaintiff's objection to Defendant's Decision regarding issuance of Zakat Assessment of 2015 AD for the non-deduction of prepaid deferred expenses in the amount of (SAR 114,560,36) from Zakat Base of 2015 AD, as they are actual expenses that were duly cleared from the company's financial liability, while Defendant argued that it did not approve the deduction of the item in question from Zakat Base, as it is not among deductible items set forth in Article (4) of Implementing Regulations for the Collection of Zakat of 1438 AH. The Department found that: Based on Article (4.7/Second) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, which stipulates: "The following items shall be deducted from the Zakat Base: 7. Net incorporation, pre-operational, and similar capital expenses, such as advertising campaigns."; and Article (20.3) of the same Implementing Regulations, which relates to the submission of Zakat Declarations and Procedures for Examination and Assessment, as it stipulates: "The burden of prove of correctness of information in Zakat Payer's Declaration regarding items and any other data rests on Zakat Payer. If Zakat Payer fails to prove correctness of the items in its Declaration, the Authority may disapprove the item whose correctness has not been proven by Zakat Payer or make an Estimated Assessment according to the Authority's opinion based on relevant circumstances and facts and available information."; and by taken cognizance of documents, defenses, and pleas raised by parties thereto; and since the dispute lies the deduction of prepaid deferred expenses from Zakat Base, as Plaintiff stated that they are actual expenses that were duly cleared from the company's financial liability; hence, they are considered deferred expenses and among long-term capital expenses that may be deducted from the Zakat Base, while Defendant stated that those expenses are not among elements or items that are deducted from the Zakat Base under the provisions of Implementing Regulations for the Collection of Zakat; and since Plaintiff has failed to submit the financial statements and the documentary evidence of those expenses to figure out their details and nature for clarification of their Zakat calculation and validation; Therefore, the Department satisfies to dismiss Plaintiff's objection.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Accept Plaintiff's (..... Company, C.R No.) objection to Defendant's (ZATCA) Decision in form and dismiss the same on merits.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

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

Appellate Committee:



Appeal Committee ruled to uphold the Decision.



Committee for Determination of Tax Violations and Disputes

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

Decision No. IFR-2022-506

Case No. 24558-2020-Z

Key words:

Zakat – Estimated Assessment – Amendment Commensurate with Declarations –Non-Binding Categories to Keep Regular Books and Records – Nature of Activity

Abstract

Plaintiff (Zakat Payer) filed this case to abolish Defendant's (ZATCA) Decision regarding Zakat Assessment of 2018 AD, as it included Plaintiff's objection to Defendant's Decision regarding the same.

The Department found that Plaintiff's activity is "Wholesale of Gold and Precious Metals"; hence, the estimated profit ratio to be applied is (15%) pursuant to the provisions of Implementing Regulations for the Collection of Zakat; and since Plaintiff has failed to submit VAT Returns, under which Plaintiff has requested to calculate the Zakat Base.

The Department decided to dismiss Plaintiff's objection.

Instruments:

- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Article \(13.6\) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)

Facts:

Facts of the case are summarized as follows: Mr., holder of National ID No., in his capacity as the Owner of, C.R. No.; has filed a statement of claim objecting to the Decision issued by Zakat, Tax, and Customs Authority regarding Zakat Assessment of 1439 AH. Having presented the statement of claim to Defendant, it answered as follows: "Defendant's Decision came in compliance with the provisions of Article (13) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH. Accordingly, Defendant requests that Plaintiff's case be dismissed, while preserving its right to present further responses and clarifications before pleading closure."

On Tuesday 14/07/1443 AH, the Department held its session remotely to consider the Case. Having called parties to the Case; Mr., holder of National ID No., appeared in his capacity as Defendant's (ZATCA) Representative, by virtue of Authorization No. dated .../.../..., issued by Deputy Governor for Legal Affairs and Compliance. Neither Plaintiff nor his Attorney appeared at the session, despite being legally notified of the session date. Having asked Defendant's Representative regarding



his reply, he maintained his answers previously contained in his Reply, and requested the Department not to accept any new documents that have not been submitted to Defendant during the examination and objection stage. Having asked the Defendant's Representative if she had further statements, she responded with denial. Accordingly, the Department decided to close pleadings for deliberation.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (2082) of 01/06/1438 AH, and the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by Ministerial Decision No. (1535) of 11/06/1425 AH, as amended, and the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, and the relevant Laws and regulations.

In Form: Since Plaintiff filed the case to abolish Defendant's Decision regarding Zakat Assessment of 1439 AH, and since this dispute is a Zakat dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Decree No. (26040) of 21/04/1441 AH, and since the Case was filed by a person with capacity, and within the period prescribed by Law, it is then accepted in form.

On Merits: Having taken cognizance of documents included in Case file, requests, defenses, and pleas raised by parties thereto, the Department found that the dispute lies in Plaintiff's objection to Defendant's Decision regarding issuance of Zakat Assessment of 1439 AH, wherein Plaintiff requested amendment of Zakat Assessment that commensurate with its Returns, stating that Defendant based its Decision on incorrect VAT Returns to calculate the Zakat Base, while Defendant argued that its Decision came in compliance with the provisions of Implementing Regulations for the Collection of Zakat.

The Department also found that: Based on Article (13.6) of Implementing Regulations for the Collection of Zakat issued by Ministry of Finance Decision No. (2082) dated 01/06/1438 AH, which stipulates: "Estimated Zakat Base consists of the following unless Zakat Payer's Declaration shows a Larger Zakat Base: A. Working capital shall be determined by any available means, whether through the commercial register, company contracts and articles of association or any other supporting document. If it turns out that the actual working capital differs from the same, ZATCA shall be entitled to determine it in proportion to the volume of activity and the number of capital cycles according to industry, trade or business norms. (b) Net profits realized during the year, which are estimated at a minimum of (15%) of total revenues"; and since Plaintiff falls under the categories that are not obligated to keep regular books and records; hence, Defendant has the right to collect information and calculate the Zakat on an estimated basis according to the information that reflects the nature of Plaintiff's activity; and by taken cognizance of documents submitted by parties thereto, it was found that Plaintiff's activity is "Wholesale of Gold and Precious Metals"; hence, the estimated profit ratio to be applied is (15%) pursuant to the provisions of Implementing Regulations for the Collection of Zakat; and since Plaintiff has failed to submit VAT Returns, under which Plaintiff has requested to calculate the Zakat Base; Therefore, the Department satisfies to dismiss Plaintiff's objection.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

Dismiss Plaintiff's (....., TIN No.) objection to Defendant's (ZATCA) Decision regarding the Zakat Assessment in question.



This Decision was delivered in presence of Parties. The Department has set the date of (Tuesday, 05/08/1443 AH) as the date for receipt of the Decision copy. 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.

Appellate Committee:

Appeal Committee ruled to uphold the Decision.



Zakat and Tax Decisions



Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations
Disputes In Riyadh

Decision No. IR-2022-15
Case No. ZI-1478-2018

Key words:

Zakat and Tax – Accounts – Overcharged Insurance – Entertainment Expenses – Unrealized Losses on Investments – Addition of Relevant Parties Balance – Addition of Shareholders' Equity of Surplus

Abstract

The Appellant (Zakat Payer) filed this case to abolish Decision No.(15) delivered by the Objection Committee regarding Zakat and Tax Assessment of 2013 – 2015 AD, as Zakat Payer's appeal included its objection to the Objection Committee's Decision regarding the following:

1. Item (Overcharged Social Insurance); GOSI certificate cannot be relied upon due to its connection with payments during the year, not the accrued year;
2. Item (Unrealized Losses on Investments of 2014 and 2015); these losses must be deducted because they are real losses resulting from a decrease in their value according to the announced price; and
3. Item (Addition of Relevant Parties Balance of 2015); this balance should not be added to the Zakat Base, as it is a non-revolved, retained amount into the activity and represents the remaining value of the accrued goodwill.

The Department found that:

As for item (Overcharged Social Insurance); Zakat Payer failed to submit, either to the Objection Committee or this Department, any documents supporting the claimed difference.

As for item (Unrealized Losses on Investments of 2014 and 2015); the decrease in market value is considered a significant loss that reduces the Zakatable fund, which must be evaluated at its value when the Zakat is due.

As for item (Addition of Relevant Parties Balance of 2015); there is no dispute on the connection of the amount in question to the goodwill deducted from the Zakat Base.

The Department decided to accept Zakat Payer's appeal on items (Unrealized Losses on Investments of 2014 and 2015) and (Statutory Deposit with Saudi Central Bank) and dismiss the same on the remaining items.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The Department convened to consider the appeal filed on .../.../... AH, corresponding to .../.../... AD by Company, against Decision No. (15) delivered by the Second Primary Committee for Zakat and Tax Objections in Riyadh in Objection No.



(38/66) of 1439 AH in connection with Zakat and Tax Assessment of 2013 – 2015 AD, filed by Zakat Payer against ZATCA. The appealed Decision ruled as follows:

First: In Form:

Accept Plaintiff's (..... Company) objection in form.

Second: On Merits:

1. Dismiss Plaintiff's objection to item (Overcharged Social Insurance).
2. Dismiss Plaintiff's objection to item (Entertainment Expenses of 2013).
3. Dismiss Plaintiff's objection to item (Unrealized Losses in Investments of 2014 and 2015).
4. Establish resolution of dispute on item (Non-Deduction of Overpaid Tax of 2013 and 2014).
5. Dismiss Plaintiff's objection to item (Addition of Relevant Parties Balance of 2015).
6. Dismiss Plaintiff's objection to item (Addition of Shareholders' Equity of Surplus of 2014 and 2015).
7. Dismiss Plaintiff's objection to item (Addition of Revolving Amount from Zakat Provision).
8. Dismiss Plaintiff's objection to item (Statutory Deposit with SAMA).
9. Dismiss Plaintiff's objection to item (Solvency Margin).
10. Dismiss Plaintiff's objection to item (Non-Deduction of Surplus Transferred to Shareholders from Zakat Base of 2013 and 2014).
11. Establish resolution of dispute on item (Non-Deduction of Intangible Assets of 2015).

Since Zakat Payer (..... Company) dissatisfied with this Decision; it submitted a statement of appeal summarized as follows:

Zakat Payer objects to the Objection Committee's Decision in question, claiming that:

As for item (Non-Approval of Deduction of Social Insurance Expenses from Adjusted Profit); the social insurance differences must be deducted from the adjusted profit, as GOSI certificate cannot be relied upon due to its often mismatch with the accrued value, and to its connection with payments during the year, not the accrued year.

As for item (Non-Approval of Deduction of Entertainment Expenses of 2013); the entertainment expenses of 2013 must be deducted from the adjusted profit, as they represent banquet and hospitality expenses that are deductible pursuant to Article (12) of Income Tax Law and Article (9) of its Implementing Regulation, which outlined the conditions for deduction of expenses, all of which apply to the item in question; hence, they are not considered entertainment expenses.

As for item (Non-Approval of Unrealized Losses on Investments of 2014 and 2015); the unrealized losses on investments traded in the financial market of 2014 and 2015 must be deducted, as they are acceptable, from a tax perspective, for being actual losses resulting from the decrease in their value as per the announced price, and from a Zakat perspective, pursuant to Article (4/H) of Implementing Regulations for the Collection of Zakat. As for item (Addition of Relevant Parties Balance of 2015); it should not be added to Zakat Base, as it represents the remaining value of the accrued goodwill, and it is also a non-revolved, retained amount into the activity.

As for item (Addition of Shareholders' Equity of Surplus of 2014 and 2015); it should not be added to Zakat Base, as it represents the balance of the beginning of Zakat period that is not subject to Zakat and does not belong to shareholders, but rather to policyholders. It is also a non-disposable, retained balance.

As for item (Addition of Revolving Amount from Zakat Provision of 2013 – 2015); it should not be added to Zakat Base, as the component of Zakat provision is not considered among expenses that must be deducted from Zakat Base, as well as the used portion therefrom.

As for item (Non-Approval of Deduction of Statutory Deposit with SAMA); it must be deducted from Zakat Base, as they are amounts retained by SAMA that the company is



not entitled to dispose of under any circumstances. In addition, Fatwa No. (12756) stated, regarding the non-disposable funds, that the retained funds are not subject to Zakat.

As for item (Non-Approval of Deduction of Solvency Margin from Zakat Base); it must be deducted from Zakat Base, as it is considered non-disposable, retained fund pursuant to SAMA Law (“Saudi Central Bank Law”) and Fatwa No. (12756), which stated, regarding the non-disposable funds, that the retained funds are not subject to Zakat.

As for item (Non-Deduction of Surplus Transferred to Shareholders from Zakat Base of 2013 and 2014); it must be deducted from Zakat Base, as it represents policyholders’ equity in the distributed surplus, which is charged to the profit benefited by shareholders.

Based on the foregoing, Zakat Payer requests that the appealed Decision be reversed on items in question for the stated Grounds.

On Thursday 12/08/1442 AH, corresponding to 25/03/2021 AD, the Department decided to hold a 10-day e-hearing session. The period elapsed without any additional submissions from either party to the appeal.

On Tuesday 01/09/1442 AH, corresponding to 13/04/2021 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds:

Having taken cognizance of Case documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been met in form in accordance with conditions stipulated in relevant laws, regulations, and Decisions. Therefore, the appeal is accepted in form for being filed by a party having capacity and within the prescribed statutory period.

On Merits: As for Zakat Payer’s appeal regarding item (Overcharged Social Insurance), which includes its objection to the appealed Decision regarding the same, as Zakat Payer claims that GOSI certificate cannot be relied upon due to its connection with payments during the year, not the accrued year.

The Department, having considered the subject of dispute; and since Zakat Payer’s appeal is based on the fact that the amount charged to the accounts represents the accrued amount for the year, not the amount paid during the year; and since Zakat Payer failed to submit, either to the Objection Committee or this Department, any documents supporting the claimed difference; and since such difference, upon occurrence, appears within the credit balances in the statement of financial position, and is paid at the beginning of the following year; and since the dispute is related to documents; Therefore, the Department satisfies to decide that the foregoing does not affect the Objection Committee’s Decision as to conclusion it had in this regard and, by extension, to dismiss Zakat Payer’s appeal and uphold the appealed Decision on the item in question.

As for Zakat Payer’s appeal regarding item (Entertainment Expenses of 2013), which includes its objection to the appealed Decision regarding the same, as Zakat Payer claims that these expenses must be deducted for its necessity to carry out the activity and generate income.

The Department, having considered the subject of dispute; and since Zakat Payer claimed that the expenses in question represent banquet and hospitality expenses; and since Zakat Payer failed to submit, either to the Objection Committee or this Department, any documents supporting its view regarding the claimed expenses; and since the Department did not find any requirement for correction or further response in light of Zakat Payer’s submissions before this Department; Therefore, the Department satisfies to decide that the foregoing does not affect the Objection Committee’s Decision as to conclusion it had



in this regard and, by extension, to dismiss Zakat Payer's appeal and uphold the appealed Decision on the item in question based on its Grounds.

As for Zakat Payer's appeal regarding item (Unrealized Losses on Investments of 2014 and 2015), which includes its objection to the appealed Decision regarding the same, as Zakat Payer claims that these losses must be deducted, as they represent actual losses resulting from the decrease in their value as per the announced price.

The Department, having considered the subject of dispute; and since there is no dispute on the occurrence of losses in principle, nor in terms of their accounting characterization; and since the decrease in market value is considered a significant loss that reduces the Zakatable fund, which must be evaluated at its value when the Zakat is due; and since the aforementioned is not affected by inferencing to the Implementing Regulations for the Collection of Zakat, as the said Regulations was issued on a date subsequent to the years in question; hence, its provisions only apply to matters that occurred from the date of its enforcement, and its effects do not extend to matters that occurred prior to its issuance, in application of the "Principle of Non-Retroactivity of Laws"; Therefore, the Department satisfies to accept Zakat Payer's appeal on the Zakat aspect of the item in question. As for the tax aspect, since such unrealized losses are registered in the income statement; and since there is no legal provision preventing the deduction of these unrealized losses; and since there is no dispute on documents regarding the Zakat Payer's incurring of these losses; Therefore, the Department satisfies to accept Zakat Payer's appeal on the Zakat aspect of the item in question, and reverse the appealed Decision as to conclusion it had in this regard.

As for Zakat Payer's appeal regarding item (Addition of Relevant Parties Balance of 2015), which includes its objection to the appealed Decision regarding the same, as Zakat Payer claims that this balance should not be added to Zakat Base, as it is a non-revolved, retained amount into the activity and represents the remaining value of the accrued goodwill.

The Department, having considered the subject of dispute; and since there is no dispute on the connection of the amount in question to the goodwill deducted from the Zakat Base, which necessitates the addition of the financing associated with the goodwill to Zakat Base, regardless of its completion of Zakat Year; and since the Department did not find any requirement for correction or further response in light of Zakat Payer's submissions before this Department; Therefore, the Department satisfies to decide that the foregoing does not affect the Objection Committee's Decision as to conclusion it had in this regard and, by extension, to dismiss Zakat Payer's appeal and uphold the appealed Decision on the item in question.

As for Zakat Payer's appeal regarding item (Addition of Shareholders' Equity of Surplus of 2014 and 2015), which includes its objection to the appealed Decision regarding the same, as Zakat Payer claims that it should not be added to Zakat Base, as it represents the balance of the beginning of Zakat period that is not subject to Zakat and does not belong to shareholders, but rather to policyholders.

The Department, having considered the subject of dispute; and since there is no dispute that these funds remain in Zakat Payer's possession when the Zakat is due, as they represent a debt on Zakat Payer that completed the Zakat Year while it is under its possession; hence, it should be added to Zakat Base; and since the aforementioned is not affected by Zakat Payer's claim that these amounts belong to policyholders and cannot be disposed of, as Zakat Payer failed to provide proof of the separation of these amounts from the rest of its funds; Therefore, the Department satisfies to dismiss Zakat Payer's appeal and uphold the appealed Decision as to conclusion it had in this regard.

As for Zakat Payer's appeal regarding item (Addition of Revolving Amount from Zakat Provision), which includes its objection to the appealed Decision regarding the same, as Zakat Payer claims that the component of Zakat provision should not be added to Zakat



Base, in order to avoid double payment of Zakat, and that it is not considered among expenses that must be deducted from Zakat Base.

The Department, having considered the subject of dispute; and since the provisions, by their accounting nature, mean that the company has a future obligation that it did not pay during the fiscal year in which the obligation was due; hence, they are added to Zakat Base, representing Zakat Payer's funds, as such obligation means that the funds still under Zakat Payer's possession, which is not different from funds allocated to pay Zakat or otherwise; and since the Department did not find any requirement for correction or further response in light of Zakat Payer's submissions before this Department; Therefore, the Department satisfies to decide that the foregoing does not affect the Objection Committee's Decision as to conclusion it had in this regard and, by extension, to dismiss Zakat Payer's appeal and uphold the appealed Decision on the item in question.

As for Zakat Payer's appeal regarding item (Statutory Deposit with SAMA), which includes its objection to the appealed Decision regarding the same, as Zakat Payer claims that the deposit must be deducted from Zakat Base, as they are retained, non-disposable funds and are not subject to Zakat.

The Department, having considered the reasons of Zakat Payer's appeal on this item, and the appealed Decision by its illustration of ZATCA's view and the conclusion reached by that Decision by upholding the addition of the statutory deposit to Zakat Base; and since the appealed Decision was based on the fact that the Implementing Regulations for the Collection of Zakat of 1438 AH stated that the statutory deposit is not excluded from Zakat Base of Zakat Payers; and since the dispute is related to years in which the dispute arose on the Assessment made thereon prior to the provisions of the said Regulations came into effect, then implementing the provisions of that Regulations is incorrect in such a case under consideration, due to its issuance after the years in dispute; and since it was legally established by the Court of Appeal, prior to the provisions of the said Regulations, to classify the statutory deposit under guarantees required by official authorities supervising the activity in exchange for the rights of the clients, and also considered a mandatory, involuntary obligation; hence, the company is not entitled to dispose of the deposit amounts except upon its liquidation due to its constriction of the funds retained by the authority supervising the company's activity, so it became retained funds by order of that authority, considering that this matter falls under requirements and necessities of issuing a license to carry out the activity; and since the statutory provisions for regulating cooperative insurance activity stipulate that the percentage set for retaining amounts of capital shall be determined by the supervisory authority (SAMA) regulating that activity, and shall become is possessor of interest resulting from those returns paid; all of this requires considering that the amount of the statutory deposit is not required to be added to the Zakat Base of Zakat Payer; and since the aforementioned is not affected by ZATCA's claim that the deposit must be considered mortgaged funds and the Zakat due falls on the original owner's liability, as this statutory deposit was not determined by virtue of a contract between a mortgagor and a mortgagee, but rather by the statutory requirements for practicing Zakat Payer's activity, which Zakat Payer has an obligation for payment; hence, such deposit should not be considered mortgaged funds as claimed by ZATCA; Therefore, the Department satisfies to accept Zakat Payer's appeal by deducting the amount of the statutory deposit in question, and reverse the appealed Decision as to conclusion it had in this regard.

As for Zakat Payer's appeal regarding item (Solvency Margin), which includes its objection to the appealed Decision regarding the same, as Zakat Payer claims that it must be deducted from Zakat Base, as it is considered a non-disposable, retained fund, and is not subject to Zakat.



The Department, having considered the subject of dispute; and since the solvency margin is a legal requirement to maintain financial investments to meet the company's future obligations, it is dealt with in terms of Zakat according to the assets that comprise such solvency, whether they are investments in the equity of other companies prepared for trading, retained assets, or debt instruments; and since Zakat Payer acknowledged that the components of the solvency margin are represented by government bonds and deposits within local banks; hence, it is subject to Zakat; and since the Department did not find any requirement for correction or further response in light of Zakat Payer's submissions before this Department; Therefore, the Department satisfies to decide that the foregoing does not affect the Objection Committee's Decision as to conclusion it had in this regard and, by extension, to dismiss Zakat Payer's appeal and uphold the appealed Decision on the item in question.

As for Zakat Payer's appeal regarding item (Non-Deduction of Surplus Transferred to Shareholders from Zakat Base of 2013 and 2014), which includes its objection to the appealed Decision regarding the same, as Zakat Payer claims that it must be deducted from Zakat Base, as it represents policyholders' equity in the distributed surplus.

The Department, having considered the subject of dispute; and since Zakat Payer has failed to provide evidence supporting its claim by making the Assessment on the contested amounts to the financial statements, which renders its appeal to be unsubstantiated in a manner that can be considered in light of the conclusion reached by the Objection Committee; and since the Department did not find any requirement for correction or further response in light of Zakat Payer's submissions before this Department; Therefore, the Department satisfies to decide that the foregoing does not affect the Objection Committee's Decision as to conclusion it had in this regard and, by extension, to dismiss Zakat Payer's appeal and uphold the appealed Decision on the item in question.

In view of the foregoing, and in light of stated Grounds, the Department unanimously decided as follows:

Decision:

First: Accept Zakat Payer's (..... Company, C.R No., TIN No.) appeal against Decision No. (15) delivered by the Second Primary Committee for Zakat and Tax Objections in Riyadh in Objection No. (38/66) of 1439 AH in connection with Zakat and Tax Assessment of 2013 to 2015 AD, in form.

Second: On Merits:

1. Dismiss Zakat Payer's appeal on item (Overcharged Social Insurance) and uphold the Decision of the Second Primary Committee for Zakat and Tax Objections in Riyadh, for the Grounds stated herein.
2. Dismiss Zakat Payer's appeal on item (Entertainment Expenses of 2013) and uphold the Decision of the Second Primary Committee for Zakat and Tax Objections in Riyadh, for the Grounds stated herein.
3. Accept Zakat Payer's appeal on item (Unrealized Losses in Investments of 2014 and 2015) and reverse the Decision of the Second Primary Committee for Zakat and Tax Objections in Riyadh, for the Grounds stated herein.
4. Dismiss Zakat Payer's appeal on item (Addition of Related Parties Balance of 2015) and uphold the Decision of the Second Primary Committee for Zakat and Tax Objections in Riyadh, for the Grounds stated herein.
5. Dismiss Zakat Payer's appeal on item (Addition of Shareholders' Equity of Surplus of 2014 and 2015) and uphold the Decision of the Second Primary Committee for Zakat and Tax Objections in Riyadh, for the Grounds stated herein.



6. Dismiss Zakat Payer's appeal on item (Addition of Revolving Amount from Zakat Provision) and uphold the Decision of the Second Primary Committee for Zakat and Tax Objections in Riyadh, for the Grounds stated herein.

7. Accept Zakat Payer's appeal on item (Statutory Deposit with SAMA) and reverse the Decision of the Second Primary Committee for Zakat and Tax Objections in Riyadh, for the Grounds stated herein.

8. Dismiss Zakat Payer's appeal on item (Solvency Margin) and uphold the Decision of the Second Primary Committee for Zakat and Tax Objections in Riyadh, for the Grounds stated herein.

9. Dismiss Zakat Payer's appeal on item (Non-Deduction of Surplus Transferred to Shareholders from Zakat Base of 2013 and 2014) and uphold the Decision of the Second Primary Committee for Zakat and Tax Objections in Riyadh, for the Grounds stated herein.

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



Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-25
Case No. ZI-27033-2020

Key words:

Zakat and Tax – Accounts – Statutory Period for Issuance of Assessments – Import Differences – Exclusion of Non-Saudi Share in the Used Portion of Provisions – Late Payment Fine

Abstract

The Appellant (Zakat Payer) filed this case to abolish Decision No. (ISR-2020-97) delivered by the Primary Department regarding Zakat and Tax Assessment of 2007 – 2014 AD, as Zakat Payer's appeal included its objection to the Primary Department's Decision regarding the following:

1. Item (Statutory Period for Issuance of Assessments of 2007 – 2012); ZATCA has reopened the Assessment after the lapse of the statutory period without any justification to do so;
2. Item (Import Differences of 2012 – 2014); the reason for these differences is due to the incorrect classification of amounts upon registration in the accounting system with no intention from Zakat Payer for tax evasion; and
3. Item (Late Payment Fine); these fines should not be imposed and must be cancelled, as the differences resulting therefrom were not intentional.

The Department found that:

As for item (Statutory Period for Issuance of Assessments of 2007 – 2012); ZATCA's Assessment was made after the lapse of the period prescribed by the Law to make amendments on Zakat Payer's Declaration.

As for item (Import Differences of 2007 – 2012); Zakat Payer has failed to provide evidence supporting its claim regarding the reasons for differences between the information contained in Customs Declaration and the information included in its books and declarations.

As for item (Late Payment Fine of 2007 – 2012); since Zakat Payer's appeal for years in question was accepted; the associated fine is dismissed accordingly.

As for item (Late Payment Fine of 2013 and 2014); the date of ZATCA's Assessment is the maturity date on which Zakat Payer's tax is due.

The Department decided to dismiss Zakat Payer's appeal on item (Import Differences of 2012 – 2014), and accept the same on items (Statutory Period for Issuance of Assessments of 2007 – 2012) and (Late Payment Fine of 2007 – 2014).

Instruments:

- Articles (68/1/B) of [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)

Facts:



The Department convened to consider the appeal filed on .../.../... AH, corresponding to .../.../... AD by Company, against Decision No. (ISR-2020-97) delivered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in Case No. (ZI-11163-2019) in connection with Zakat and Tax Assessment of 2007 – 2014 AD, filed by Zakat Payer against ZATCA. The appealed Decision ruled as follows:
First: In Form:

Accept Plaintiff's (.....Company, C.R. No.) case in form.

Second: On Merits:

1. Dismiss Plaintiff's case on item (Lapse of Statutory Periods for Zakat and Tax Assessment of 2007 – 2012).
2. Dismiss Plaintiff's case on item (Import Differences of 2007 – 2014).
3. Establish resolution of dispute on item (Non-Deduction of fixed Assets of the Statement of Financial Position from Zakat Base).
4. Establish resolution of dispute on item (Exclusion of Non-Saudi Share in the Used Portion of Provisions from Tax Base).
5. Dismiss Plaintiff's case on item (Late Payment Fine).

Since Zakat Payer (..... Company) dissatisfied with this Decision; it submitted a statement of appeal summarized as follows:

Zakat Payer objects to the Primary Department's Decision in question, claiming that:

As for item (Statutory Period for Assessment of 2007 – 2012); the errors mentioned are errors in classification and do not affect the business outcome, and that no information was hidden from ZATCA that would reduce revenues or increase expenses for the purpose of tax evasion, as ZATCA requested information on 29/07/2018 AD, which was responded by Zakat Payer on 21/11/2018 AD, whereafter no further notification was received from ZATCA. In addition, ZATCA notified Zakat Payer of the Assessment on 06/01/2019 AD, i.e., more than five (5) years after the date of submission of Zakat Payer's declarations.

As for item (Import Differences of 2007 – 2014); the main reason for these differences is the incorrect classification of the amounts upon registration in the accounting system. In addition, the amounts were not detailed accurately, whether they represent offshore or internal procurement. Moreover, this incorrect classification was accidental, with no intention from Zakat Payer for tax evasion, as the data submitted to ZATCA is accurate and the financial statements were audited by a chartered accountant. Furthermore, these differences have no effect on the net accounting profit.

As for item (Late Payment Fine of 2007 – 2014); these fines should not be imposed and must be cancelled, as the differences resulting therefrom were not intentional.

Based on the foregoing, Zakat Payer requests that the appealed Decision be reversed for the stated Grounds.

On Wednesday, 07/03/1443 AH, corresponding to 13/10/2021 AD, the Department decided to hold a 10-day e-hearing session, in which ZATCA submitted a Reply to Zakat Payer's appeal, a summary of which included that it adheres to its view presented before the Primary Department regarding items in question, as ZATCA stated:

As for item (Import Differences of 2007 – 2014); its Decision was based on Article (13.5) and Article (20.3) of Implementing Regulations for the Collection of Zakat, and Article (57.3) of Implementing Regulations of Income Tax Law.

As for item (Late Payment Fine); its Decision was based on Article (77/A) of Income Tax Law and Article (68.1/B) of its Implementing Regulations. Moreover, ZATCA reaffirms that claims raised by Zakat Payer are consistent with the earlier submissions, which ZATCA responded to at that time. Furthermore, ZATCA requests the Department not to accept any new documents from Zakat Payer that have not been submitted during the examination and objection stages. Based on the foregoing, ZATCA adheres to the validity



and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld for the stated Grounds.

On Monday 16/05/1443 AH, corresponding to 20/12/2021 AD, the Department, regarding objection to years 2013 and 2014, has requested Zakat Payer to submit a report from a chartered accountant to match the offshore procurement contained in Customs Declaration with the procurement included in Zakat Payer's books and declarations for years in dispute, and clarify the reasons for those differences, within thirty (30) days from the date of notification of this Department's Decision.

On Monday 07/06/1443 AH, corresponding to 10/01/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds:

Having taken cognizance of Case documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been met in form in accordance with conditions stipulated in relevant laws, regulations, and Decisions. Therefore, the appeal is accepted in form for being filed by a party having capacity and within the prescribed statutory period.

On Merits: As for Zakat Payer's appeal regarding item (Statutory Period for Issuance of Assessments of 2007 – 2012), which includes its objection to ZATCA's reopening of Assessment after the lapse of the statutory period without any justification to do so, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld.

The Department, having taken cognizance of Zakat Payer's appeal and contents of the Case file, found that ZATCA's Assessment of 2007 – 2012 was made after the lapse of the period prescribed by the Law to make amendments on Zakat Payer's Declaration, which is for five (5) years from the final date set for submission of Zakat Declaration by Zakat Payer for each year; Therefore, the Department satisfies to decide invalidity of ZATCA's procedure for making amendments on Assessment for years in question and, by extension, to accept Zakat Payer's appeal for years in question and reverse the appealed Decision as to conclusion it had in this regard.

As for Zakat Payer's appeal regarding item (Import Differences of 2012 – 2014), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that the reason for these differences is due to the incorrect classification of amounts upon registration in the accounting system with no intention from Zakat Payer for tax evasion, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld.

The Department, having taken cognizance of contents of the Case file; and since the dispute is related to document; and since Zakat Payer has failed to provide evidence supporting its claim regarding the reasons for differences between the information contained in Customs Declaration and the information included in its books and declarations; and since the Department found that the conclusion reached by the Primary Department was sound and valid, and that the Grounds on which its Decision was based were sufficient to uphold this Decision; Therefore, the Department satisfies to dismiss Zakat Payer's appeal and uphold the appealed Decision as to conclusions it had in this regard.

As for Zakat Payer's appeal regarding item (Late Payment Fine), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer



claims that these fines should not be imposed and must be cancelled, as the differences resulting therefrom were not intentional, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld.

The Department, having taken cognizance of contents of the Case file; found that: As for late payment fine of 2007 – 2012, since Zakat Payer's appeal for years in question was accepted; and since the late payment fine is associated with the item in question; therefore, it shall be dismissed accordingly.

As for late payment fine of 2013 and 2014, since the dispute lies in the lack of documents that were requested from Zakat Payer to prove one of its expenses; and since such request was not in violation of the explicit provisions of Law or its Implementing Regulations; Therefore, the Department satisfies to decide that the date of ZATCA's Assessment is the maturity date on which Zakat Payer's tax is due, in application of provisions of Article (68.1/B) of Implementing Regulations of Income Tax Law, which entitled ZATCA to impose a fine for late payment of the tax due under ZATCA's Assessment and, by extension, to amend the Primary Department's Decision by imposing a late payment fine from the date of notification of Assessment.

In view of the foregoing, and in light of stated Grounds, the Department unanimously decided as follows:

Decision:

First: Accept Zakat Payer's (..... Company, C.R No., TIN No.) appeal against Decision No. (ISR-2020-97) delivered by the Second Department for the Determination of Income Tax Violations and Disputes in Riyadh, in Case No. (ZI-11163-2019), in connection with Zakat and Tax Assessment of 2007 – 2014 AD, in form.

Second: On Merits:

1. Accept Zakat Payer's on item (Statutory Period for Issuance of Assessments of 2007 – 2012) and reverse the Decision of the Second Department for the Determination of Income Tax Violations and Disputes in Riyadh, for the Grounds stated therein.

2. Dismiss Zakat Payer's appeal on item (Import Differences of 2012 – 2014) and uphold the Decision of the Second Department for the Determination of Income Tax Violations and Disputes in Riyadh, for the Grounds stated therein.

3. As for item (Late Payment Fine):

A. Accept Zakat Payer's appeal on this item for years 2007 – 2012, and reverse the Decision of the Second Department for the Determination of Income Tax Violations and Disputes in Riyadh, for the Grounds stated therein.

B. Accept Zakat Payer's appeal on this item for years 2013 – 2014, and amend the Decision of the Second Department for the Determination of Income Tax Violations and Disputes in Riyadh by imposing a late payment fine from the date of notification of Assessment, for the Grounds stated therein.

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



Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-28
Case No. ZI-48701-2021

Key words:

Zakat and Tax – Accounts – Advertising Expenses – Late Payment Fine – Offshore Procurement – Late Payment Fine – Labor Hire Expenses – Salaries and Wages – Board Members Remuneration – Social Insurance Expenses

Abstract

The Appellant (Zakat Payer) filed this case to abolish Decision No. (IZJ-2021-132) delivered by the Primary Department regarding Zakat and Tax Assessment of 2013 – 2015 AD, as ZATCA's appeal included its objection to the Primary Department's Decision regarding the following:

1. Item (Advertising Expenses of 2013 – 2015); for the acceptance of deduction of this item by the Primary Department for the lack of supporting documents; and
2. Item (Late Payment Fine); for the imposition of the tax from its due date.

Zakat Payer's appeal included its objection to the Primary Department's Decision regarding the following:

1. Item (Offshore Procurement); Zakat Payer has imported those procurement on behalf of others and issued an invoice for them, then they were resold to Zakat Payer;
2. Items (Labor Hire Expenses) and (Board Members Remuneration); these expenses must be deducted, as they are documented and necessary to carry out the activity that generate income;
3. Item (Salaries and Wages); these expenses must be deducted;
4. Item (Social Insurance Expenses); Zakat Payer has no knowledge of the basis on which ZATCA relied to arrive at the said amounts; and
5. Item (Late Payment Fine); there is a substantive disagreement on items on which the fine is imposed.

The Department decided to dismiss ZATCA's appeal on items (Advertising Expenses of 2013 – 2015) and (Late Payment Fine); dismiss Zakat Payer's appeal on items (Offshore Procurement), (Salaries and Wages), (Social Insurance Expenses), and the Tax aspect of item (Board Members Remuneration); and accept Zakat Payer's appeal on item (Labor Hire Expenses), the Zakat aspect of item (Board Members Remuneration), the late payment fine associated with item (Labor Hire Expenses), and the late payment fine associated with the remaining items.

Instruments:

- Article (23) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- Article (77/A) of [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - Paragraph (A/B) of [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH](#)



Facts:

The Department convened to consider the appeal filed on .../.../... AH, corresponding to .../.../... AD by Company, and the appeal filed by Zakat, Tax, and Customs Authority (“ZATCA”), against Decision No. (IZJ-2021-132) delivered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah, in Case No. (ZI-7512-2019) in connection with Zakat and Tax Assessment of 2013 – 2015 AD, filed by Zakat Payer against ZATCA. The appealed Decision ruled as follows:

First: In form:

Accept Plaintiff’s (.....Company, C.R. No.) case in form.

Second: On merits:

1. Accept Plaintiff’s (..... Company) objection to item (Advertising and Promotion Expenses of 2013 – 2015).
2. Dismiss Plaintiff’s (..... Company) objection to item (Offshore Procurement of 2013 – 2015).
3. Dismiss Plaintiff’s (..... Company) objection to item (Labor Hire Expenses of 2013 – 2015).
4. Dismiss Plaintiff’s (..... Company) objection to item (Non-Approval of Deduction of Salaries and Wages of 2013 – 2015).
5. Dismiss Plaintiff’s (..... Company) objection to item (Non-Approval of Deduction of Board Members Remuneration of 2013 – 2015).
6. Dismiss Plaintiff’s (..... Company) objection to item (Social Insurance Expenses of 2013 – 2015).
7. Amend Defendant’s Decision on item (Late Payment Fine) as to conclusion reached in this Decision.

Since both parties to the Case dissatisfied with this Decision; they submitted a statement of appeal summarized as follows:

As for Zakat Payer’s appeal against the Primary Department’s Decision in question, it included the following:

As for item (Offshore Procurement of 2013 – 2015); Zakat Payer claims that, in order to maintain liquidity and ensure smooth operation of working capital, the Company entered into an agreement with a local entity namely Company, whereby Company imports goods for its own use on behalf of Company. These goods are owned by Company and are stored in its warehouses. An invoice is issued for these goods to be sold by to, and registered by, while procurement is disclosed by as part of its local procurement.

As for item (Labor Hire Expenses of 2013 – 2015); Zakat Payer claims that these expenses are deductible for tax and Zakat purposes and supported by documents.

As for item (Non-Approval of Deduction of Salaries and Wages); Zakat Payer claims that salaries and wages disclosed in its Declaration include both salaries subject to and not subject to GOSI subscription, and that GOSI certificate includes only the basic salary and the default housing allowance, while salaries include other allowances.

As for item (Non-Approval of Deduction of Board Members Remuneration); Zakat Payer claims that these remunerations are paid to Board Members for managing the company’s business and overseeing progress in various business areas; hence, they should be considered deductible expenses.

As for item (Non-Approval of Deduction of Overcharged Social Insurance Expenses); Zakat Payer claims that it has no knowledge of the basis on which ZATCA relied to arrive at the said amounts. In addition, based on the comparison between the amounts disclosed



to GOSI and those claimed by the company to be deducted, there should be no exclusions, as the amounts disclosed are less than those contained in Zakat Payer's Declaration.

As for item (Late Payment Fine); Zakat Payer claims that the disagreement between ZATCA and Zakat Payer is of substantive nature; hence, any additional income tax arising therefrom should not be subject to a late payment fine.

Based on the foregoing, Zakat Payer requests that the appealed Decision be reversed on items in question for the stated Grounds.

As for ZATCA's appeal against the Primary Department's Decision in question, it included the following:

As for item (Advertising and Promotion Expenses); ZATCA clarifies that Zakat Payer has submitted an analytical statement on (Excel) format that is not supported by payment vouchers. In addition, new documents that were not submitted during the field examination and before making the Assessment cannot be accepted, as ZATCA has given Zakat Payer a sufficient time to submit the supporting documents. Accordingly, ZATCA made the Assessment according to the data available and returned the advertising and promotion expenses to the net profit for the lack of supporting documents.

As for item (Late Payment Fine); ZATCA clarifies that its Decision was based on Article (77/A) of Income Tax Law and Paragraph (A/B) of its Implementing Regulations. Based on the foregoing, ZATCA adheres to validity and soundness of its procedure and requests that the appealed Decision be reversed on items in question for the stated Grounds.

On Monday 02/05/1443 AH, corresponding to 06/12/2021 AD, the Department decided to hold a 10-day e-hearing session, in which Zakat Payer submitted a number of documents.

On Tuesday 17/05/1443 AH corresponding to 21/12/2021 AD, since the dispute is related to documents, the Department, having considered the contested items, requested Zakat Payer to submit the following:

For item (Offshore Procurement); a report from a chartered accountant showing the differences in the offshore procurement contained in Customs Declaration with those included in Zakat Payer's Declarations by matching information and clarifying the reasons for differences.

For item (Salaries and Wages); a report from a chartered accountant showing Zakat Payer's incurring of salary expenses and the reasons for differences between expenses included in Zakat Payer's Declarations and those stated in GOSI certificate.

For item (Board Members Remuneration); the Company's Articles of Association and its amendments and a list of Board Members' names to whom the disputed remunerations were disbursed, while stating whether they were Company's partners or their relatives.

For item (Social Insurance Expenses); a report from a chartered accountant showing the differences in the social insurance expenses included in Zakat Payer's Declarations and those stated in GOSI certificate, while clarifying the reasons for those differences.

All these documents must be submitted within thirty (30) days from the date of notification of Zakat Payer of the Department's request.

On Sunday 20/06/1443 AH, corresponding to 23/01/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds:

Having taken cognizance of the case documents and statement of appeal submitted by Zakat Payer and ZATCA, the Department found that conditions for hearing appeal have been met in form in accordance with conditions stipulated in relevant laws, regulations,



and Decisions. Therefore, both appeals are accepted in form for being filed by parties having capacity and within the prescribed statutory period.

On Merits: As for ZATCA's appeal regarding item (Advertising and Promotion Expenses of 2013 – 2015), which includes its objection to the Primary Department's Decision for accepting the deduction of this item for lack of supporting documents, while Zakat Payer argued that it requests that ZATCA's appeal be dismissed and the appealed Decision be upheld.

The Department, having found that Zakat Payer has submitted the documents supporting the disbursement of the amounts in question before the Primary Department; Zakat Payer is entitled to deduct these expenses from its Zakat and Tax Base; and since the aforementioned is not affected by ZATCA's claim that Zakat Payer may not submit the supporting documents after the examination stage, as Article (23) of Tax Dispute and Violation Committee Procedures has entitled Zakat Payers to prove their claims by all means of evidence before the Department considering the case; and since the Department found that the conclusion reached by the Primary Department was sound and valid; Therefore, the Department satisfies to dismiss ZATCA's appeal and uphold the appealed Decision as to conclusions it had in this regard.

As for ZATCA's appeal regarding item (Late Payment Fine), which includes the imposition of the tax from its due date pursuant to Article (77/A) of Income Tax Law and Paragraph (A/B) of its Implementing Regulations, while Zakat Payer argued that it requests that ZATCA's appeal be dismissed and the appealed Decision be upheld on the item in question.

Since the Department has dismissed ZATCA's appeal regarding item (Advertising and Promotion Expenses); the associated fine is dismissed accordingly. Therefore, the Department satisfies to dismiss ZATCA's appeal and uphold the appealed Decision as to conclusions it had in this regard.

As for Zakat Payer's appeal regarding item (Offshore Procurement), wherein Zakat Payer claimed that it has imported those procurement on behalf of others and issued an invoice for them, then they were resold to Zakat Payer, and registered within its procurement processes.

The Department, having taken cognizance of Zakat Payer's appeal; and since the dispute is related to document; and since Zakat Payer has failed to provide evidence supporting its claim; and since the Department found that the conclusion reached by the Primary Department was sound and valid, and that the Grounds on which its Decision was based were sufficient to uphold this Decision; Therefore, the Department satisfies to dismiss Zakat Payer's appeal and uphold the appealed Decision as to conclusions it had in this regard.

As for Zakat Payer's appeal regarding item (Labor Hire Expenses), wherein Zakat Payer claimed that these expenses must be deducted, as they are documented and necessary to carry out the activity that generate income.

Since the dispute is related to document; and since Zakat Payer has submitted the documents supporting the expenses in question and a sample of the contracts that proves Zakat Payer's incurring of these expenses; and since no claims have been proven before this Department that refutes Zakat Payer's submissions; Therefore, the Department satisfies to accept Zakat Payer's appeal and reverse the appealed Decision as to conclusion it had in this regard.

As for Zakat Payer's appeal regarding item (Salaries and Wages), wherein Zakat Payer claimed that these expenses must be deducted, as the salaries expenses included in GOSI certificate differ from salaries that were actually paid, and that those expenses are documented and necessary to carry out the activity that generate income.



Since the dispute is related to document; and since Zakat Payer has failed to provide evidence supporting its claim; and since the Department found that the conclusion reached by the Primary Department was sound and valid, and that the Grounds on which its Decision was based were sufficient to uphold this Decision; Therefore, the Department satisfies to dismiss Zakat Payer's appeal and uphold the appealed Decision as to conclusions it had in this regard.

As for Zakat Payer's appeal regarding item (Board Members Remuneration), wherein Zakat Payer claimed that these expenses must be deducted, as they are documented and necessary to carry out the activity that generate income.

The Department, having taken cognizance of Zakat Payer's appeal on the Zakat aspect of this item; since there is no dispute that the funds in question are not under Zakat Payer's possession; and since the conditions for an amount to be subject to Zakat is to be in Zakat Payer's possession; Therefore, the Department satisfies to accept Zakat Payer's appeal on the Zakat aspect of the item in question. As for the tax aspect, since Zakat Payer has failed to prove that the Board Members were not partners of the company nor their relatives; hence, Zakat Payer is not entitled to deduct these expenses from its Tax Base; Therefore, the Department satisfies to dismiss Zakat Payer's appeal on the Tax aspect of the item in question.

As for Zakat Payer's appeal regarding item (Social Insurance Expenses), wherein Zakat Payer claimed that it has no knowledge of the basis on which ZATCA relied to arrive at the said amounts.

Since the dispute is related to document; and since Zakat Payer has failed to provide evidence supporting its claim; and since the Department found that the conclusion reached by the Primary Department was sound and valid, and that the Grounds on which its Decision was based were sufficient to uphold this Decision; Therefore, the Department satisfies to dismiss Zakat Payer's appeal and uphold the appealed Decision as to conclusions it had in this regard.

As for Zakat Payer's appeal regarding item (Late Payment Fine), wherein Zakat Payer claimed that, due to the existence of a substantive disagreement on items on which the fine is imposed, such fine should be imposed from the date of issuance of a judgment resolving the dispute of these items. The Department, having taken cognizance of Zakat Payer's appeal on this item, found that:

As for the late payment fine associated with item (Labor Hire Expenses); since the Department has accepted Zakat Payer's appeal regarding the said item, the associated fine is dismissed accordingly. As for the late payment fine associated with objection to item (Board Members Remuneration), which was dismissed by this Department; since the provisions of Income Tax Law was explicit by stating that the tax due date begins from the date of submission of Zakat Payer's Tax Return; and since this Department has not found any significant disagreement in the interpretation of the relevant regulatory provisions; and since Article (77/A) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 25/01/1425 AH stipulates that the fine shall be imposed from the tax due date; Therefore, the Department satisfies to impose a late payment fine from the date of submission of Zakat Payer's Tax Return until the date of payment.

As for the remaining items that were dismissed by the Department, which resulted in the imposition of a late payment fine; since the dispute lies in the lack of documents that were requested from Zakat Payer to prove one of its expenses; and since such request was not in violation of the explicit provisions of Law or its Implementing Regulations; Therefore, the Department satisfies to decide that the date of ZATCA's Assessment is the due date on which Zakat Payer's tax is due, in application of provisions of Article (68.1/B) of Implementing Regulations of Income Tax Law, which entitled ZATCA to impose a fine for late payment of the tax due under ZATCA's Assessment and, by extension, to amend



the Primary Department's Decision by imposing a late payment fine from the date of notification of Zakat Payer of the Assessment.

In view of the foregoing, and in light of stated Grounds, the Department unanimously decided as follows:

Decision:

First: Accept Zakat Payer's (..... Company, C.R No., TIN No.) appeal and ZATCA's appeal against Decision No. (IZJ-2021-132) delivered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah in Case No. (ZI-7512-2019) in connection with Zakat and Tax Assessment of 2013 – 2015 AD, in form

Second: On Merits:

1. Dismiss ZATCA's appeal on item (Advertising Expenses of 2013 – 2015) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, for the Grounds stated therein.

2. Dismiss ZATCA's appeal on item (Late Payment Fine) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, for the Grounds stated therein.

3. Dismiss Zakat Payer's appeal on item (Offshore Procurement) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, for the Grounds stated therein.

4. Accept Zakat Payer's appeal on item (Labor Hire Expenses) and reverse the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, for the Grounds stated therein.

5. Dismiss Zakat Payer's appeal on item (Salaries and Wages) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, for the Grounds stated therein.

6. As for item (Board Members Remuneration):

A. Accept Zakat Payer's appeal on the Zakat aspect of this item and reverse the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, for the Grounds stated therein.

B. Dismiss Zakat Payer's appeal on the Tax aspect of this item and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, for the Grounds stated therein.

7. Dismiss Zakat Payer's appeal on item (Social Insurance Expenses) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, for the Grounds stated therein.

8. As for item (Late Payment Fine):

A. Accept Zakat Payer's appeal on the late payment fine associated with item (Labor Hire Expenses) by dismissing the late payment fine, and reverse the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah as to conclusions it had in this regard, for the Grounds stated therein.

B. Dismiss Zakat Payer's appeal on the late payment fine associated with item (Board Members Remuneration) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, as to conclusions it had in this regard by imposing a late payment fine from the date of submission of Zakat Payer's Tax Return until the date of payment, for the Grounds stated therein.

C. Accept Zakat Payer's appeal on the late payment fine associated with the remaining items and amend the Primary Department's Decision by imposing a late payment fine from the date of Assessment on Zakat Payer until the date of payment, for the Grounds stated therein.



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



Key words:

Zakat and Tax – Accounts – Import Differences – Staff Housing – Adjusted Profit – Import Differences – Depreciation Differences for Fixed Assets – Trade Payables – Related Parties – Late Payment Fine – Other Payables – Unrealized Profits

Abstract

The Appellant (ZATCA/ Zakat Payer) filed this case to abolish Decision No. (IZD-2021-390) delivered by the Primary Department regarding Zakat and Tax Assessment of 2007 – 2016 AD, as Zakat Payer’s appeal included its objection to the Primary Department’s Decision regarding the following:

1. Item (Import Differences of 2013, 2015, and 2016); the differences are due to reasons beyond Zakat Payer’s control, and were not taken into account by ZATCA when making the Assessment.
2. Item (Staff Housing); this item must be deducted.

ZATCA’s appeal included its objection to the Primary Department’s Decision regarding the following:

1. Item (Objection in Form to Tax/Zakat Assessment of 2007 – 2012); there is a valid justification for reopening the Assessment represented in Zakat Payer submission of incorrect declarations subject to the item in question.
2. Items (Import Differences of 2009 – 2016) and (Trade Payables of 2007 and 2012); the Primary Department has accepted the deduction of these item despite Zakat Payer’s failure to submit documents supporting its claim regarding the same.

The Department decided to accept ZATCA’s appeal on some items and dismiss the same on the other items; and accept Zakat Payer’s appeal on some items and dismiss the same on the other items.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The Department convened to consider the appeal filed on .../.../... AH, corresponding to .../.../... AD by Company, and the appeal filed on .../.../... AH, corresponding to .../.../... AD by Zakat, Tax, and Customs Authority (“ZATCA”); against Decision No. (IZD-2021-390) delivered by the First Department for Determination of Income Tax Violations and Disputes in Dammam, in Case No. (ZI-6600-2019) in connection with Zakat and Tax Assessment of 2007 – 2016 AD, filed by Zakat Payer against ZATCA. The appealed Decision ruled as follows:



1. Abolish Defendant's Decision on item (Reopen Assessment of 2007 – 2012).
2. Abolish Defendant's Decision on item (Non-Approval of Deduction of Asset Sale Proceeds of 2010).
3. Abolish Defendant's Decision on item (Currency Losses of 2007).
4. Establish resolution of dispute on item (Exclusion of Service Contracts' Costs of 2007).
5. Abolish Defendant's Decision on item (Unapproved Donations of 2009 and 2010).
6. Abolish Defendant's Decision on item (Undisclosed Revenues of 2009).
7. Abolish Defendant's Decision on item (Import Differences of 2009 – 2012, and 2014) and amend Defendant's Decision.
8. Establish resolution of dispute on item (Life Insurance Expenses of 2009 – 2014).
9. Abolish Defendant's Decision on item (Depreciation Differences and Fixed Assets by Calculation of Depreciation on Intangible Assets of 2007 – 2012), and amend Defendant's Decision of 2013 – 2016.
10. Dismiss Plaintiff's objection to item (Effect of Tax Amendments on Zakat).
11. Abolish Defendant's Decision on item (Trade Payables of 2007 – 2012, and 2014 – 2016), and amend Defendant's Decision of 2013.
12. Abolish Defendant's Decision on item (Related Parties of 2007, 2008, 2011, and 2016).
13. Abolish Defendant's Decision on item (Other Payables of 2014).
14. Abolish Defendant's Decision on item (Short-Term Loans of 2010 and 2011).
15. Establish resolution of dispute on item (Change in Cash Flow Hedges of 2007 and 2011).
16. Abolish Defendant's Decision on item (Unused Cash in Financing Fixed Assets from Long-Term Loans of 2008).
17. Abolish Defendant's Decision on item (Difference in Long-Term Loans Added to Zakat Base of 2007).
18. Abolish Defendant's Decision on item (Non-Deduction of Deferred Losses of 2008 and 2009).
19. Abolish Defendant's Decision on item (Undocumented Dividends of 2010).
20. Abolish Defendant's Decision on item (Difference in Partners' Advances of 2010).
21. Amend Defendant's Decision on item (Late Payment Fine).
22. Abolish Defendant's Decision on item (Deduction of Unrealized Profits of 2012 and 2015).
23. Abolish Defendant's Decision on item (Unrealized Profits and Losses of Revaluation of 2007).
24. Establish resolution of dispute on item (Deduction of the Used Portion from Provision for Doubtful Debts of 2015).
25. Establish resolution of dispute on item (Non-Deduction of the Used Portion from Provision for Slow Moving Inventory of 2015).
26. Establish resolution of dispute on item (Non-Deduction of the Used Portion from Provision for Non-Importable Insurance Premiums of 2015 and 2016).
27. Establish resolution of dispute on item (Prepaid Financing Costs of 2014 – 2016).
28. Dismiss Plaintiff's objection to item (Staff Housing Loans of 2016).
29. Establish resolution of dispute on item (Non-Deduction of Intangible Assets of 2012 and 2013).
30. Dismiss Plaintiff's objection to item (Non-Deduction of Losses of Disposal of Assets of 2014 and 2015).
31. Establish resolution of dispute on item (Provisions Added to Zakat Base of 2012 and 2016).
32. Establish resolution of dispute on item (Incorrect Processing of Retained Profits of 2011 and 2012).
33. Dismiss Plaintiff's objection to item (Calculation of Zakat on the Net Profit of 2016).



34. Establish resolution of dispute on item (Non-Deduction of Company's Payments from Accrued Amounts under Assessment).

Since both parties to the Case dissatisfied with this Decision; they submitted a statement of appeal summarized as follows:

As for Zakat Payer's appeal against the Primary Department's Decision in question, it included the following:

As for item (Import Differences of 2013 – 2016); Zakat Payer claims that import differences are due to several reasons, including the different processing for registering the shipping charges and insurance costs related to the imported goods in the books by importers, and the cost of capital assets included in the records of Saudi Customs, while they are classified as a cost of fixed assets in the books and Zakat Declaration.

As for item (Staff Housing Loans of 2016); Zakat Payer claims that the long-term payables related to housing loans must be deducted, as they are classified as non-current assets, and their nature does not match the nature of commercial debtors.

As for item (Calculation of Zakat on the Adjusted Net Profit Instead of Zakat Base of 2016); Zakat Payer claims that claims that the Zakat Base, according to the company's Declaration, is negative, and that ZATCA added certain amounts and rejected some deductions from the Zakat Base, resulting in a positive Zakat Base. Accordingly, the company requests that ZATCA's procedure be abolished, as the realized income must be subject to Zakat after the completion of the Zakat Year. Based on the foregoing, Zakat Payer requests that the appealed Decision be reversed on items in question for the stated Grounds.

As for ZATCA's appeal against the Primary Department's Decision in question, it included the following:

As for item (Statute of Limitations – Reopen Assessment of 2007 – 2012); ZATCA clarifies that the Assessment was made pursuant to Article (65/B) of Income Tax Law and Article (21.8) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082), as ZATCA stated that it amended Zakat Payer's Declarations with several items affecting the Zakat and Tax Assessment, which were incorrectly prepared by Zakat Payer.

As for item (Incorrect Processing of Unrealized Profits and Losses of Revaluation); ZATCA clarifies that these profits and losses of revaluation were processed pursuant to Article (12) of Implementing Regulations of Income Tax Law, as the expense of unrealized currency difference losses or profits resulting from the revaluation cannot be accepted.

As for item (Addition of the Difference in Sales Revenues of 2009); ZATCA clarifies that that the difference between the revenues in the trial balance and the financial statements of 2009 was refunded to the adjusted net profit due to Zakat Payer's failure to submit documents supporting its view regarding these revenues. In addition, the amount of (SAR 607,025,232) cannot be the result of a commercial operation – “a clerical error from ZATCA, as it meant “the experimental activity before commercial activity” – which is sufficient for the non-deduction from the projects under construction. Moreover, no evidence of the starting date of commercial production was submitted by a government authority.

As for item (Processing of Fixed Assets); ZATCA clarifies that it calculated the depreciation differences by comparing the depreciation as per Statement No. (4) and the accurate schedules prepared by ZATCA, due to the difference in the classification of assets within the groups of the statements prepared by Zakat Payer to comply with the provisions of Article (17) of Income Tax Law.

As for items (Addition of Undocumented Dividends to Zakat Base), (Asset Sale Proceeds), (Currency Losses), (Unapproved Donations), (Short-Term Loans), (Unused Cash in Financing Fixed Assets from Long-Term Loans), (Difference in Long-Term Loans Added



to Zakat Base), (Deferred Losses), (Difference in Partners' Advances), and (Unrealized Profits and Losses of Revaluation), ZATCA clarifies that the Primary Department has ignored the consideration of these items and satisfied with considering the "statute of limitations" item only, and then abolished ZATCA's procedure on those items on the Grounds of the said item only, which indicates that its Decision in violation of the regulatory requirements, as how the Primary Department would be able to prove invalidity of ZATCA's procedure on those items while it did not consider them at all!. In addition, ZATCA, to avoid redundancy and save the Department's time, refers to and maintain the statements contained in its Reply submitted before the Primary Department.

As for item (Calculation of Additional Zakat and Tax on the Difference of Foreign Imports' Cost as Per Customs Declarations and Zakat Payer's Declarations); ZATCA clarifies that it compared the value of the offshore procurement included in the declaration issued by Saudi Customs with the data included in Zakat Payer's Declarations, wherein ZATCA found differences between them that were processed under ZATCA's Circular No. (9/2030) of 15/04/1430 AH.

As for item (Addition of Trade Payables to Zakat Base); ZATCA clarifies that Zakat Payer did not submit documents supporting its view that these balances have not completed the Zakat Year, nor a statement of balance activity approved by a chartered accountant.

As for item (Addition of Related Parties to Zakat Base); ZATCA clarifies that it added the balance of the beginning or the end of Zakat period, whichever is less, in accordance with the statutory provisions.

As for item (Addition of Other Payables to Zakat Base); ZATCA clarifies that it added the balances that completed the Zakat Year and remained in Zakat Payer's possession to Zakat Base.

As for item (Imposition of Late Payment Fine on Income Tax Liabilities); ZATCA clarifies that it imposed late payment fines on tax differences that were not paid on their statutory date, based on Articles (77/A) and (77/B) of Income Tax Law, and Article (68.1/B) of its Implementing Regulations.

As for item (Unrealized profits); ZATCA clarifies that it adheres to its view contained in its Reply submitted to the Primary Department. In addition, ZATCA states that the abolishment of the item in question by the Primary Department for ZATCA's failure to clarify the reasons for non-acceptance of the exclusion of these unrealized profits from the adjusted profit is incorrect, as ZATCA's response to the item in question is explained in its Reply submitted to the Primary Department.

Based on the foregoing, ZATCA adheres to validity and soundness of its procedure and requests that its procedure be upheld and the appealed Decision be reversed on items subject of ZATCA's appeal for the stated Grounds.

Since the Department decided opening of pleadings, ZATCA submitted a Reply dated 12/02/1443 AH, corresponding to 19/09/2021 AD, to Zakat Payer's appeal, a summary of which included that it adheres to the validity and soundness of its procedure, as well as its view contained in its Reply submitted to the Primary Department, which ZATCA refers to for avoiding redundancy and saving the Department's time. ZATCA also adheres to validity of the Grounds on which the Primary Department based its Decision. Moreover, ZATCA clarifies that its procedure came in compliance with Implementing Regulations for the Collection of Zakat, and Income Tax Law and its Implementing Regulations. Based on the foregoing, ZATCA adheres to validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld on items subject of Zakat Payer's appeal for the stated Grounds.

On Tuesday 28/02/1443 AH, corresponding to 05/10/2021 AD, the Department decided to hold a 10-day e-hearing session, in which Zakat Payer submitted a number of documents.



On Thursday 22/03/1443 AH, corresponding to 28/10/2021 AD, the Department, having considered the subject of dispute, and with regard to Zakat Payer's appeal on item (Import Differences of 2013, 2015, and 2016) and ZATCA's appeal on item (Import Differences of 2009 – 2016); has requested Zakat Payer to submit a report from a chartered accountant showing the imports differences for years in question between Customs Declaration and the data included in Zakat Payer's Declaration and financial statements, while clarifying the reasons for differences for years 2013 – 2016, within sixty (60) days from this date. The Department has also requested ZATCA, regarding Zakat Payer's appeal on item (Adjusted Profit), to submit the Zakat Assessment for the year in question, within ten (10) days from this date. Accordingly, the Department decided to continue considering the case in the light of received information.

On Sunday 20/06/1443 AH, corresponding to 23/01/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds:

Having taken cognizance of the case documents and statement of appeal submitted by Zakat Payer and ZATCA, the Department found that conditions for hearing appeal have been met in form in accordance with conditions stipulated in relevant laws, regulations, and Decisions. Therefore, both appeals are accepted in form for being filed by parties having capacity and within the prescribed statutory period.

On Merits: As for Zakat Payer's appeal regarding item (Import Differences of 2013, 2015, and 2016), wherein Zakat Payer's claims that the differences are due to reasons beyond its control, and were not taken into account by ZATCA when making the Assessment, while ZATCA argued that it adheres to validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld.

The Department, having considered the subject of dispute, found that; since the principles established in litigation that the judicial authority, having decided that the case has become ripe for adjudication on its merits, to resolve the dispute with a ruling that is clear, unequivocal in meaning, and definitive in connotation to its intent; and since the Grounds of the appealed Decision did not clarify the meaning of amendment of ZATCA's Decision, nor the conclusion reached in the appealed Decision's wording, under which it can be enforced, all result in non-resolution of dispute on its merits; and since the Primary Department did not extinguish its jurisdiction for adjudicating the subject of the dispute; Therefore, this Department satisfies to abolish the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, and remand the case for consideration on its merits and issuance of a Decision based on clear and unambiguous Grounds that resolve the dispute definitively.

As for Zakat Payer's appeal regarding item (Staff Housing), wherein Zakat Payer's claims that the item in question must be deducted, as it is classified among non-current assets and its nature does not match the nature of commercial debtors.

The Department, having considered the subject of dispute, found that; since Zakat Payer has failed to prove insolvency or procrastination of debtors; and since it is established in the applicable Fatwas that all debts shall not be deducted from Zakat Base unless the impossibility of collection of these debts is proven; and since this Department found that the conclusion reached by the Primary Department was sound and valid, and that the Grounds on which its Decision was based were sufficient to uphold this Decision; Therefore, the Department satisfies to dismiss Zakat Payer's appeal and uphold the appealed Decision as to conclusions it had in this regard.



The Department also found that; since the income realized is subject to Zakat only after the completion of the Zakat Year, not before; and since Zakat Payer is appealing a matter that was not the subject of dispute between Zakat Payer and ZATCA, as ZATCA Assessment was on Zakat Base, therefore, Zakat Payer's appeal precedes ZATCA's procedure represented in enforcing the Primary Department's Decision and the consequences resulting therefrom in terms of making the Assessment on the adjusted profit by considering the same as the Zakat Base if such profit is greater than the Zakat Base; and since such matter was not the subject of dispute with ZATCA when Zakat Payer submitted its objection to ZATCA; Therefore, the Department satisfies to disregard this matter.

As for ZATCA's appeal regarding item (Objection in Form to Tax/Zakat Assessment of 2007 – 2012), wherein ZATCA claims that there is a valid justification for reopening the Assessment, represented in Zakat Payer submission of incorrect declarations subject to the item in question.

The Department, having considered the subject of dispute, found that; since the statutory period for making the Assessment is five (5) years from the final date set for submission of Zakat Declaration; and since ZATCA's right to make or reopen the Assessment without being bound by a specific period is restricted by the emergence of data or information that was not known to ZATCA and would affect the Tax or Zakat Assessment, or documents proving Zakat Payer's evasion of paying Zakat or Tax; and since ZATCA has failed to submit documents supporting the existence of information that was hidden or was not aware of after Zakat Payer's submission of its declaration, nor arithmetical or material errors that require reopening the Assessment; and since the Grounds on which ZATCA relied in amending Zakat Payer's Declarations with several crucial items does not constitute evidence of Zakat or Tax evasion by Zakat Payer, as this information is not based on new substantive elements that were not mentioned in the original Assessment; and since the Department did not find that Zakat Payer has concealed information for the purpose of Zakat or Tax evasion; Therefore, the Department satisfies to decide invalidity of ZATCA's procedure for reopening the Assessment after the lapse of the period prescribed by Law and, by extension, to dismiss ZATCA's appeal and uphold the appealed Decision as to conclusion it had in this regard.

As for ZATCA's appeal regarding item (Import Differences of 2009 – 2016), wherein ZATCA claims that the Primary Department has accepted the deduction of the item in question despite Zakat Payer's failure to submit documents supporting its claim regarding the same.

The Department, having considered the subject of dispute, found that; since it has dismissed ZATCA's appeal regarding the statute of limitations and upheld the Primary Department's Decision; Therefore, the Department decides to dismiss ZATCA's appeal regarding the item in question for years 2009 – 2012. The Department, with regard to the remaining years in question, found that; since the principles established in litigation that the judicial authority, having decided that the case has become ripe for adjudication on its merits, to resolve the dispute with a ruling that is clear, unequivocal in meaning, and definitive in connotation to its intent; and since the Grounds of the appealed Decision did not clarify the meaning of amendment of ZATCA's Decision, nor the conclusion reached in the appealed Decision's wording, under which it can be enforced, all result in non-resolution of dispute on its merits; and since the Primary Department did not extinguish its jurisdiction for adjudicating the subject of the dispute; Therefore, this Department satisfies to abolish the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, and remand the case for consideration on its merits and issuance of a Decision based on clear and unambiguous Grounds that resolve the dispute definitively.



As for ZATCA's appeal regarding item (Depreciation Differences for Fixed Assets), wherein ZATCA claims that the Primary Department has accepted the deduction of the item in question despite the difference in the classification of assets within the groups of the statements prepared by Zakat Payer. The Department, having considered the subject of dispute, found that the dispute has resolved before the Primary Department on the Zakat aspect of the item in question. As for the Tax aspect, since the Grounds of the appealed Decision did not clarify the meaning of the amendment decided by the Primary Department regarding ZATCA's Assessment for years 2013 – 2016 of the item in question, which result in non-resolution of dispute on its merits; and since the Primary Department did not extinguish its jurisdiction for adjudicating the subject of the dispute; Therefore, this Department satisfies to abolish the appealed Decision on the Tax aspect of the dispute over the item in question, and remand the case for consideration on its merits and issuance of a Decision based on clear and unambiguous Grounds that resolve the dispute definitively.

As for ZATCA's appeal regarding item (Trade Payables of 2007 and 2012), wherein ZATCA claims that the Primary Department has accepted the deduction of the item in question despite Zakat Payer's failure submit documents supporting its claim regarding the same. The Department, having considered the subject of dispute, found that; since it has dismissed ZATCA's appeal regarding the statute of limitations and upheld the Primary Department's Decision; Therefore, the Department decides to dismiss ZATCA's appeal regarding the item in question for years 2007 – 2012. The Department, with regard to years 2014 – 2016, having considered the subject of dispute, and the Decision issued therein and the Grounds on which it was based; found that the conclusion reached by the Primary Department was sound and valid, and that the Grounds on which its Decision was based were sufficient to uphold this Decision, which is not affected by ZATCA's submissions that have no effect on conclusion of that Decision; Therefore, the Department satisfies to dismiss ZATCA's appeal and uphold the appealed Decision as to conclusions it had in this regard, attributed to its Grounds.

As for ZATCA's appeal regarding item (Related Parties), wherein ZATCA claims that the Primary Department has accepted the deduction of the item in question despite the fact that ZATCA's addition of the balance of the beginning or the end of Zakat period, whichever is less, was in accordance with the statutory provisions.

The Department, having considered the subject of dispute, found that; since it has dismissed ZATCA's appeal regarding the statute of limitations and upheld the Primary Department's Decision for years 2007 – 2012; Therefore, the Department decides to dismiss ZATCA's appeal regarding the item in question for years 2007, 2008, and 2011. The Department, with regard to the year 2016, having considered the subject of dispute, and the Decision issued therein and the Grounds on which it was based; found that the conclusion reached by the Primary Department was sound and valid, and that the Grounds on which its Decision was based were sufficient to uphold this Decision, which is not affected by ZATCA's submissions that have no effect on conclusion of that Decision; Therefore, the Department satisfies to dismiss ZATCA's appeal and uphold the appealed Decision as to conclusions it had in this regard, attributed to its Grounds.

As for ZATCA's appeal regarding item (Late Payment Fine), wherein ZATCA claims that the Primary Department has amended the item in question despite the fact that ZATCA's imposition of the late payment fine on tax differences that were not paid on their statutory date, was in accordance with the provisions of Income Tax Law and its Implementing Regulations, and that this item was not subject of dispute with Zakat Payer.

The Department, having considered the subject of dispute, found that; since Zakat Payer's objection was proven before the Primary Department; and since the Department did not find any requirement for correction or further response in light of ZATCA's submissions



before this Department regarding the item in question; and since the Department found that the conclusion reached by the Primary Department was sound and valid, and that the Grounds on which its Decision was based were sufficient to uphold this Decision; Therefore, the Department satisfies to dismiss ZATCA's appeal and uphold the appealed Decision as to conclusions it had in this regard, attributed to its Grounds.

As for ZATCA's appeal regarding item (Other Payables), wherein ZATCA claims that the Primary Department has accepted the deduction of the item in question despite its completion of the Zakat Year while remaining in Zakat Payer's possession.

The Department, having considered the subject of dispute, found that; since Zakat Payer has submitted the detailed statement of activity of this item for years in question; and since the Department was free to consider the Grounds of the appealed Decision without making any additions whenever it became satisfied that these Grounds were sufficient and did not require any further addition, as the Department by supporting those Grounds, confirms that it did not find any Decision-related objections that require a response that went beyond those Grounds; and since it is established that the appealed Decision, with regard to the item in question was consistent with the valid Grounds on which it was based and sufficient to support the ruling, as the Primary Department issuing the Decision has considered the Grounds of the dispute and reached the conclusion mentioned in its wording; and since this Department did not find any requirement for correction or further response in light of submissions and pleas presented thereto; Therefore, the Department satisfies to decide that the foregoing does not affect the conclusion reached by the appealed Decision and, by extension, to dismiss ZATCA's appeal and uphold the appealed Decision as to conclusion it had in this regard, attributed to its Grounds.

As for ZATCA's appeal regarding item (Unrealized profits), wherein ZATCA claims that the Grounds on which the Primary Department based its Decision regarding the item in question were flawed due to lack of reasons for dismissal; as ZATCA has presented all reasons in its Reply.

The Department, having considered the subject of dispute, found that; since it has dismissed ZATCA's appeal regarding the statute of limitations and upheld the Primary Department's Decision for years 2007 – 2012; Therefore, the Department decides to dismiss ZATCA's appeal regarding the item in question for the year 2012. The Department, with regard to the year 2015, having reviewed Zakat Payer's financial statements for the year in question, found that the unrealized profits were resulted from the conversion of foreign currencies; and since Article (12) of Implementing Regulations of Income Tax Law stipulated that: "..... currency conversion profits or losses resulting from re-evaluation for tax purposes are not taken into account", which result in validity of Zakat Payer's processing of these profits by excluding from its Zakat Base; Therefore, the Department satisfies to dismiss ZATCA's appeal and uphold the appealed Decision as to conclusion it had in this regard.

In view of the foregoing, and in light of stated Grounds, the Department unanimously decided as follows:

Decision:

First: Accept Zakat Payer's (..... Company, C.R. No., TIN No.) appeal and ZATCA's appeal, against Decision No. (IZD-2021-390) delivered by the First Department for Determination of Income Tax Violations and Disputes in Dammam in Case No. (ZI-6600-2019) in connection with Zakat and Tax Assessment of 2007 – 2016, in form.

Second: On Merits:

1. Accept Zakat Payer's appeal on item (Import Differences of 2013, 2015, and 2016), abolish the Decision of the First Department for Determination of Income Tax Violations



and Disputes in Dammam, and remand the case for consideration on its merits, for the Grounds stated herein.

2. Dismiss Zakat Payer's appeal on item (Staff Housing) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, for the Grounds stated herein.

3. Disregard Zakat Payer's appeal on item (Adjusted Profit) for the Grounds stated herein.

4. Dismiss ZATCA's appeal on item (Objection in Form to Tax/Zakat Assessment of 2007 – 2012) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, for the Grounds stated herein.

5. As for item (Import Differences of 2009 – 2016):

A. Dismiss ZATCA's appeal on this item for years 2009 – 2012, and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, for the Grounds stated herein.

B. Accept ZATCA's appeal on this item for years 2013 – 2016, abolish the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, and remand the case for consideration on its merits, for the Grounds stated herein.

6. Accept ZATCA's appeal on item (Depreciation Differences for Fixed Assets), abolish the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, and remand the case for consideration on its merits, for the Grounds stated herein.

7. Dismiss ZATCA's appeal on item (Trade Payables) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, for the Grounds stated herein.

8. Dismiss ZATCA's appeal on item (Related Parties) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, for the Grounds stated herein.

9. Dismiss ZATCA's appeal on item (Late Payment Fine) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, for the Grounds stated herein.

10. Dismiss ZATCA's appeal on item (Other Payables) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, for the Grounds stated herein.

11. Dismiss ZATCA's appeal on item (Unrealized profits) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, for the Grounds stated herein.

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



Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax
Violations and Disputes In Riyadh

Decision No. IR-2022-43
Case No. ZI-26420-2020

Key words:

Zakat and Tax – Accounts – Fixed Assets and Depreciation Differences – Overcharged Maintenance Expenses – Entertainment Expenses

Abstract

The Appellant (ZATCA) filed this case to abolish Decision No. (ZI-9656-2019) delivered by the Primary Department regarding Zakat and Tax Assessment of 2011 – 2013 AD, as ZATCA's appeal included its objection to the Primary Department's Decision regarding the following:

1. Item (Fixed Assets and Depreciation Differences); ZATCA requested adoption of the depreciation schedule it prepared pursuant to Circular No. (9/2574) of 14/05/1426 AH and Circular No. (9/1724) of 24/03/1427 AH.
2. Item (Overcharged Maintenance Expenses of 2011); ZATCA added this item to the net profit.
3. Item (Entertainment Expenses); the Primary Department did not consider this item, nor state in its Decision whether it was accepted or dismissed.

The Department found that:

As for item (Fixed Assets and Depreciation Differences); ZATCA's Assessment of 2011 and 2012 was after the lapse of the period prescribed by Law to make amendments on Zakat Payer's Declaration. As for the year 2013, the Circulars issued by ZATCA allowed Zakat Payer to apply the method of its choice, and that the method stated in Zakat Payer's Declaration is the method selected by Zakat Payer to be applied, while maintaining the application of the selected method.

As for item (Overcharged Maintenance Expenses of 2011); ZATCA's Assessment of 2011 was after the lapse of the period prescribed by Law to make amendments on Zakat Payer's Declaration.

As for item (Entertainment Expenses); the Primary Department did not adjudicate the same, which resulted in non-resolution of dispute on its merits as to the conclusion reached in the appealed Decision. The Department decided to dismiss ZATCA's appeal on items (Fixed Assets and Depreciation Differences) and (Overcharged Maintenance Expenses of 2011), and accept the same on item (Entertainment Expenses).

Instruments:

- Article (18/B) of [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH](#)

Facts:

The Department convened to consider the appeal filed on .../.../... AH, corresponding to .../.../... AD by Zakat, Tax, and Customs Authority ("ZATCA"), against Decision No. (IZD-2020-100) delivered by the First Department for Determination of Income Tax



Violations and Disputes in Dammam, in Case No. (ZI-9656-2019) in connection with Zakat and Tax Assessment of 2011 – 2013 AD, filed by Zakat Payer against ZATCA. The appealed Decision ruled as follows:

In from:

Accept the case in form.

On Merits:

1. Accept Plaintiff's objection to item (Fixed Assets and Depreciation Differences of 2011 – 2013).
2. Dismiss Plaintiff's objection to item (Overcharged Social Insurance of 2012 and 2013).
3. Establish resolution of dispute on item (Import Differences Accepted But Not Deducted of 2011).
4. Accept Plaintiff's objection to item (Overcharged Maintenance Expenses of 2011).
5. Dismiss Plaintiff's objection to item (Statutory Period for Issuance of Assessment of 2011).

Since ZATCA dissatisfied with this Decision; it submitted a statement of appeal summarized as follows:

ZATCA objects against the Primary Department's Decision in question, claiming the following:

As for item (Fixed Assets and Depreciation Differences); ZATCA clarifies that it requested the adoption of the depreciation schedule it prepared, adjustment of depreciation differences in the net book profit, and deduction of the fixed assets from the Zakat Base, as the said schedule was prepared pursuant to Circular No. (9/2574) of 14/05/1426 AH and Circular No. (9/1724) of 24/03/1427 AH.

As for item (Overcharged Maintenance Expenses of 2011); ZATCA clarifies that it added the maintenance expenses charged in excess of the statutory rate (4%) to the net profit based on Article (18/B) of Income Tax Law.

As for item (Entertainment Expenses); ZATCA clarifies that the Primary Department did not consider this item, nor state in its Decision whether it was accepted or dismissed, which requires correction by the Department. In addition, ZATCA adheres to its view that the item in question must be added to Zakat Base due to the failure of submission of the supporting documents, based on Articles (5), (6), and (20.3) of Implementing Regulations for the Collection of Zakat issued by Ministry of Finance's Decision No. (2082) of 01/06/1438 AH. Based on the foregoing, ZATCA requests that the Primary Department's Decision be reversed on items subject of its appeal for the stated Grounds.

Since the Department decided opening of pleadings, Zakat Payer submitted a Reply dated 05/08/1442 AH, corresponding to 18/03/2021 AD, to ZATCA's appeal, a summary of which included that it adheres to the validity and soundness of the Primary Department's Decision. In addition, Zakat Payer clarifies its view as follows:

As for item (Fixed Assets and Depreciation Differences); ZATCA did not deduct the item in question in accordance with its Assessment, as the Implementing Regulations for the Collection of Zakat stated that the deduction of a fixed asset requires its ownership and usage in the activity, all of which is achieved in Zakat Payer's case.

As for item (Overcharged Maintenance Expenses); these expenses are documented and necessary to carry out the activity that generates Zakatable income

As for item (Entertainment Expenses); these expenses are documented and necessary to carry out the activity that generates Zakatable income, pursuant to Article (5) of Implementing Regulations for the Collection of Zakat. Based on the foregoing, Zakat Payer requests that ZATCA's appeal be dismissed and the appealed Decision be upheld for the stated Grounds.



On Monday 23/05/1443 AH, corresponding to 27/12/2021 AD, the Department decided to hold a 10-day e-hearing session. The period elapsed without any additional submissions from either party to the appeal.

On Sunday 27/06/1443 AH, corresponding to 30/01/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds:

Having taken cognizance of the Case documents and statement of appeal submitted by ZATCA, the Department found that conditions for hearing appeal have been met in form in accordance with conditions stipulated in relevant laws, regulations, and Decisions. Therefore, the appeal is accepted in form for being filed by party having capacity and within the prescribed statutory period.

On Merits: As for ZATCA's appeal regarding item (Fixed Assets and Depreciation Differences), wherein ZATCA claims that it requested adoption of the depreciation schedule it prepared pursuant to Circular No. (9/2574) of 14/05/1426 AH and Circular No. (9/1724) of 24/03/1427 AH, while Zakat Payer argued that it requests that ZATCA's appeal be dismissed and the appealed Decision be upheld. The Department, having taken cognizance of the Case file, and with regard to years 2011 and 2012, found that; since ZATCA's Assessment was made after the lapse of the period prescribed by the Law to amend Zakat Payer's Declaration, which is five (5) years from the final date set for submission of Zakat Declaration by Zakat Payer for each year; and since these rules are established to maintain the stability of transactions and prevent instability of Zakat Payers' positions in case of absence of a timeframe that ensures maintaining their financial positions not jeopardized; and since this matter does not result in releasing Zakat Payer from its legal obligation if it is already concerned with meeting such obligation, but rather represents a procedural issue with relation to ZATCA right to reopen Assessments after the lapse of the period prescribed by the Law; Therefore, the Department satisfies to decide invalidity of ZATCA's procedure for amending the Assessment for years 2011 and 2012. The Department, having referred to the Primary Department's Decision, and with regard to the year 2013, found that; the Primary Department's based its Decision on its examination of the asset and depreciation statements prepared by Zakat Payer and ZATCA, as Zakat Payer applied the "Straight-Line Method", while ZATCA applied the "Diminishing Method"; and since Circulars issued by ZATCA allowed Zakat Payer to apply the method of its choice, and that the method stated in Zakat Payer's Declaration is the method selected by Zakat Payer to be applied, while maintaining the application of the selected method, which results in the validity of Zakat Payer's action; Therefore, the Department satisfies to dismiss ZATCA's appeal and uphold the appealed Decision as to conclusion it had in this regard.

As for ZATCA's appeal regarding item (Overcharged Maintenance Expenses of 2011), wherein ZATCA claims that it added the item in question to the net profit based on Article (18/B) of Income Tax Law, while Zakat Payer argued that it requests that ZATCA's appeal be dismissed and the appealed Decision be upheld.

The Department found that; since ZATCA's Assessment was made after the lapse of the period prescribed by the Law to amend Zakat Payer's Declaration, which is five (5) years from the final date set for submission of Zakat Declaration by Zakat Payer for each year; Therefore, the Department satisfies to decide invalidity of ZATCA's procedure for amending the Assessment and, by extension, to accept Zakat Payer's appeal and reverse the appealed Decision as to conclusion it had in this regard.



As for ZATCA's appeal regarding item (Entertainment Expenses), wherein ZATCA claims that the Primary Department did not consider this item, nor state in its Decision whether it was accepted or dismissed.

The Department, having taken cognizance of ZATCA's appeal and the content of the Case file, found that; since the facts of the appealed Decision included Zakat Payer's objection to the item in question; and since the Primary Department did not adjudicate the same, which resulted in non-resolution of dispute on its merits as to the conclusion reached in the appealed Decision; and since the Primary Department did not extinguish its jurisdiction for adjudicating the subject of the dispute; and in order to enable Zakat Payer to have the right to litigate at both degrees; Therefore, the Department satisfies to remand the case to the First Department for Determination of Income Tax Violations and Disputes in Dammam for consideration on the merits of the item in question.

In view of the foregoing, and in light of stated Grounds, the Department unanimously decided as follows:

Decision:

First: Accept ZATCA's appeal against Decision No. (IZD-2020-100) delivered by the First Department for Determination of Income Tax Violations and Disputes in Dammam in Case No. (ZI-9656-2019) in connection with Zakat and Tax Assessment of 2011 – 2013, in form.

Second: On Merits:

1. Dismiss ZATCA's appeal on item (Fixed Assets and Depreciation Differences), and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, for the Grounds stated herein.
2. Dismiss Zakat Payer's appeal on item (Overcharged Maintenance Expenses of 2011) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, for the Grounds stated herein.
3. Accept ZATCA's appeal on item (Entertainment Expenses) and remand the case to the First Department for Determination of Income Tax Violations and Disputes in Dammam for consideration on the merits of the item in question, for the Grounds stated herein.

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



Key words:

Zakat and Tax – Accounts – Approval of Offshore Procurement – Approval of Support Services Costs – Related Parties – Late Payment Fine

Abstract

The Appellant (Taxpayer) filed this case to abolish Decision No. (IZD-2020-131) delivered by the Primary Department regarding Tax Assessment of 2011 and 2012 AD, as Taxpayer's appeal included its objection to the Primary Department's Decision regarding the following:

1. Item (Approval of the Offshore Procurement of "SAR 979,492" of 2011); these procurements must be deducted, as they are documented and necessary to carry out the activity that generates taxable income.
2. Item (Approval of Support Services Costs of "SAR 1,140,318" of 2011); these procurements must be deducted, as they represent materials and supplies that were imported into the Kingdom and are not subject to withholding tax.
3. Item (Withholding Tax of 15% Instead of 5% on Technical Service Fees Paid to Non-Resident Related Parties); the ministerial Decisions shall not have a retroactive effect.
4. Item (Late Payment Fine); the fine should not be imposed due to the existence a substantive disagreement on items on which the fine is imposed, but rather from the date of issuance of a judgment resolving the dispute of these items.

The Department found that:

As for item (Approval of the Offshore Procurement of "SAR 979,492" of 2011); the amount in question was in exchange for services delivered to Taxpayer from non-resident parties that are subject to withholding tax.

As for item (Approval of Support Services Costs of "SAR 1,140,318" of 2011); the dispute between Taxpayer and ZATCA was not related to the status of payment, but rather to proving the incurrence of expenses by documents.

As for item (Withholding Tax on Payments to Related Parties); Taxpayer has submitted proof of payment of the amount in question.

As for item (Withholding Tax on Payments to "....." in United Kingdom of 2011); the appealed Decision was found to be devoid of consideration of a fundamental pleading of Taxpayer, which is the existence of an International Tax Convention governing the subject of dispute.

As for Taxpayer's appeal regarding item (Withholding Tax of 15% Instead of 5% on Technical Service Fees Paid to Non-Resident Related Parties); ZATCA has failed to provide evidence disproving Taxpayer's statement of payment of those amounts.

As for item (Late Payment Fine); the contradiction in the appealed Decision renders the same flawed by deficiency in reasoning and must be reversed. The Department decided to accept Taxpayer's appeal on all items.

Instruments:





- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The Department convened to consider the appeal filed on .../.../... AH, corresponding to .../.../... AD by Mr., holder of National ID No., in his capacity as the Appellant Company's Attorney, by virtue of its Articles of Association, against Decision No. (IZD-2020-131) delivered by the First Department for Determination of Income Tax Violations and Disputes in Dammam, in Case No. (IW-7-2018) in connection with Tax Assessment of 2011 and 2012 AD, filed by Taxpayer against Zakat, Tax, and Customs Authority ("ZATCA"). The appealed Decision ruled as follows:

In from:

Accept Plaintiff's case in form.

On Merits:

- Dismiss Plaintiff's objection to item (Non-Approval of the Offshore Procurement of 2011).
- Accept Plaintiff's objection to item (Amounts of Fiscal Year 2012).
- Dismiss Plaintiff's objection to item (Approval of Support Services Costs of 2011).
- Accept Plaintiff's objection to item (Withholding Tax on Payments to "....." in Groningen, Netherlands).
- Accept Plaintiff's objection to item (Withholding Tax on Payments to "..... Company" in Netherlands).
- Accept Plaintiff's objection to item (Withholding Tax on Payments to "....." in Netherlands).
- Dismiss Plaintiff's objection to item (Withholding Tax on Payments to "....." in United Kingdom).
- Dismiss Plaintiff's objection to item (Service Fees Paid to Non-Resident Related Parties by 5% Instead of 15%).
- Accept Plaintiff's objection to item (Late Payment Fine).

Since Taxpayer (..... Company) dissatisfied with this Decision; it submitted a statement of appeal summarized as follows:

Taxpayer objects to the Primary Department's Decision in question, as it included the following:

As for item (Withholding Tax on Payments to "....."), Taxpayer requests acceptance of its objection to the item in question, as all documents supporting its claim have been previously submitted, including a copy of the signed contract and the documents necessary to claim the merits of the Tax Convention; however, the Primary Department ignored to consider these documents and issued its Decision to dismiss the item in question.

As for item (Withholding Tax on Payments to "....."), Taxpayer claims that the withholding tax has been paid at a rate of (5%) on the costs of technical services paid to, and that Company submitted copies of the amended Withholding Tax Return for January 2012 accompanied by Payment Order as proof of payment of the withholding tax and the late payment fine.

As for item (Withholding Tax of 15% Instead of 5% on Technical Service Fees Paid to Non-Resident Related Parties), Taxpayer claims that Decision No. (Q/6998) of 1438 AH delivered by the Administrative Court in Riyadh stated that the ministerial Decision shall not have a retroactive effect. Accordingly, Taxpayer requests abolishment of ZATCA's Decision for the imposition of an additional withholding tax of (10%) on technical and consultancy service fees paid to non-resident related parties for years 2011 and 2012.



As for item (Late Payment Fine), Taxpayer claims that a late payment fine should not be imposed due to the existence of a substantive disagreement with ZATCA.

As for item (Approval of the Offshore Procurement of “SAR 979,492” of 2011), Taxpayer claims that they are necessary business expenses and do not include any illegal expenses, as the expenses of..... Company represent technical and consultancy service expenses in the amount of (SAR 593,093), and rental services in the amount of (SAR 386,399) for Company; hence, they should be considered actual deductible expenses, since their withholding tax has been paid.

As for item (Approval of Support Services Costs of “SAR 1,140,318” of 2011), Taxpayer claims that they represent materials and supplies that were imported into the Kingdom and are not subject to withholding tax. Based on the foregoing, Taxpayer requests that the appealed Decision in question be reversed for the stated Grounds.

On Tuesday 27/03/1443 AH, corresponding to 02/11/2021 AD, the Department decided to hold a 10-day e-hearing session, in which ZATCA submitted a Reply to Taxpayer’s appeal, a summary of which included that it adheres to its view presented before the Primary Department, which ZATCA refers to for avoiding redundancy and saving the Department’s time. ZATCA also adheres to validity of the Primary Department’s Decision, except for item (Late Payment Fine). Moreover, ZATCA reaffirms that claims raised by Taxpayer are consistent with the earlier submissions, which it responded to at that time. Based on the foregoing, ZATCA adheres to the validity and soundness of its procedure and requests that Taxpayer’s appeal be dismissed and the appealed Decision be upheld for the stated Grounds.

On Tuesday 27/03/1443 AH, corresponding to 02/11/2021 AD, the Department, having considered the subject of dispute, and with regard to Taxpayer’s appeal on item (Withholding Tax on Payments to “.....” in United Kingdom of 2011), wherein Taxpayer stated that it has submitted a copy of the contract signed between “.....” and “.....”, and a copy of the Withholding Tax Return of (February) 2012, as well as the documents necessary to claim the merits of the Tax Convention; and since the said documents have not been submitted to the Department; it requested Taxpayer to submit a copy of the said Tax Convention, translated and certified by a licensed translation office, as well as all documents supporting Taxpayer’s view, translated and certified by a licensed translation office, within sixty (60) days from this date. Accordingly, the Department decided to continue considering the case in the light of received information. Thereupon, Taxpayer has submitted some documents.

On Sunday 27/06/1443 AH, corresponding to 30/01/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds:

Having taken cognizance of Case documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been met in form in accordance with conditions stipulated in relevant laws, regulations, and Decisions. Therefore, the appeal is accepted in form for being filed by a party having capacity and within the prescribed statutory period.

On Merits: As for Taxpayer’s appeal regarding item (Approval of the Offshore Procurement of “SAR 979,492” of 2011), wherein Taxpayer claims that these procurements must be deducted, as they are documented and necessary to carry out the activity that generates taxable income, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Taxpayer’s appeal be dismissed and the



appealed Decision be upheld. The Department, having considered the subject of dispute, found that; since the amount in question was in exchange for services delivered to Taxpayer from non-resident parties; and since the dispute on the item in question is related to documents; and since Taxpayer has submitted proof of payment of withholding tax for these services in question; Therefore, the Department satisfies to accept Taxpayer's appeal.

As for Taxpayer's appeal regarding item (Approval of Support Services Costs of "SAR 1,140,318" of 2011), wherein Taxpayer claims that these procurements must be deducted, as they represent materials and supplies that were imported into the Kingdom and are not subject to withholding tax, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Taxpayer's appeal be dismissed and the appealed Decision be upheld.

The Department, having considered the subject of dispute, found that; since the appealed Decision has established that Taxpayer has submitted supporting documents for all transactions that took place with Company; and since ZATCA failed to specify the type of amounts it rejected from the total of Taxpayer's transactions with said company; and since the matter was as stated; the expenses claimed by Taxpayer are deemed proven by documents for the purposes of calculating income tax; and since the aforementioned is not affected by Grounds on which the Primary Department based its Decision that Taxpayer did not submit documents for payments of amounts claimed by Taxpayer to be deducted, as the dispute between Taxpayer and ZATCA was not related to the status of payment, but rather to proving the incurrence of expenses by documents; Therefore, the Department satisfies to accept Taxpayer's appeal and reverse the appealed Decision as to conclusion it had in this regard.

As for Taxpayer's appeal regarding item (Withholding Tax on Payments to "....."), wherein Taxpayer claims that the withholding tax has already been paid at a rate of (5%) on the costs of technical services paid to, which was proven by documents, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Taxpayer's appeal be dismissed and the appealed Decision be upheld. The Department, having considered the subject of dispute, found that, since the dispute is related to documents; and since Taxpayer has submitted proof of payment of the amount in question; Therefore, the Department satisfies to accept Taxpayer's appeal and reverse the appealed Decision as to conclusion it had in this regard.

As for Taxpayer's appeal regarding item (Withholding Tax on Payments to "....." in United Kingdom of 2011), wherein Taxpayer claims that the Primary Department has ignored the consideration of the documents proving the actual payment to "....." in United Kingdom, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Taxpayer's appeal be dismissed and the appealed Decision be upheld.

The Department, having considered the subject of dispute, found that, since the judicial ruling is based on elements, most importantly are its reasons; including requests and pleas of litigants, as well as examining and discussing their Grounds to reach a correct ruling in accordance with established judicial principles; and since Grounds for the judgment must include an answer to every request or plea made before the judicial department and ruling thereon may entail a change of opinion on the dispute, otherwise the judgment would be flawed; and since Taxpayer's objection to the appealed Decision involves its request to abolish ZATCA's Decision based on the "Convention Between the Government of the Kingdom of Arabia Saudi and the Government of the Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Tax Evasion with Respect to Taxes on Income and on Capital"; and since the appealed Decision was found to be devoid of consideration of a fundamental pleading of Taxpayer, which is the existence of an



International Tax Convention governing the subject of dispute, which determines that the Decision is flawed and must be reversed, and by extension, result in non-resolution of dispute as stipulated in its wording, under which the Primary Department did not extinguish its jurisdiction for adjudicating the subject of the dispute; and in order enable Taxpayer to have the right to litigate at both degrees; Therefore, the Department satisfies to abolish the Primary Department's Decision on the item in question and remand the case for consideration of the same on its merits in light of pleas presented thereto by Taxpayer.

As for Taxpayer's appeal regarding item (Withholding Tax of 15% Instead of 5% on Technical Service Fees Paid to Non-Resident Related Parties), wherein Taxpayer claims that the ministerial Decisions shall not have a retroactive effect, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Taxpayer's appeal be dismissed and the appealed Decision be upheld. The Department, having considered the subject of the dispute, Taxpayer's appeal, and the Grounds of the appealed Decision, found that the dispute lies in Taxpayer's request that the technical and consultancy services delivered to related parties be subjected to a withholding tax of (5%), while ZATCA considers that it should be subject to a rate of (15%); and since the Department found that the Ministerial Decision No. (1776), under which the withholding rate was amended from (5%) to (15%), on which the Primary Department based its Decision, has been issued on a date subsequent to the statutory date for the due withholding tax on Taxpayer; and since Taxpayer has paid the amount in question to non-resident party prior to the issuance of the said Ministerial Decision, on which ZATCA based its Decision by applying the withholding tax at rate of (15%); and since ZATCA has failed to provide evidence disproving Taxpayer's statement of payment of those amounts prior to the issuance of the Ministerial Decision No. (1776) of 18/05/1435 AH; and since the Department found that the provisions set forth in the Ministerial Resolution apply after the statutory date for the due withholding tax in question; and since the matter was as stated, and it was established that the legal provisions only apply to matters that occurred from the date of its enforcement, and its effects do not extend to matters that occurred prior to its issuance, in application of the "Principle of Non-Retroactivity of Laws"; Therefore, the Department satisfies to decide that Taxpayer has the right to pay the withholding tax at a rate of (5%) on amounts paid to the non-resident party.

As for Taxpayer's appeal regarding item (Late Payment Fine), wherein Taxpayer claims that the fine should not be imposed due to the existence a substantive disagreement on items on which the fine is imposed, but rather from the date of issuance of a judgment resolving the dispute of these items, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Taxpayer's appeal be dismissed and the appealed Decision be upheld.

The Department, having considered the subject of dispute and the appealed Decision regarding the item in question, found that the appealed Decision was deficient in its reasoning due to the contradiction contained therein, as it mentioned the legal provisions enforcing the imposition of the tax, then referred to the judicial principle "If a matter ceases to exist, that which is incidental to it shall also cease to exist.", and concluded with the phrase "Therefore, the Department decided to amend Defendant's Decision and accept Plaintiff's objection to item (Late Payment Fine)", without clarifying the intended amendment; and since the appealed Decision has accepted Taxpayer's appeal on some items and dismissed the same on the other; and since such contradiction renders the appealed Decision flawed by deficiency in reasoning and must be reversed, which result in non-resolution of dispute as stipulated in its wording; Therefore, the Department satisfies to abolish the Primary Department's Decision on the item in question and remand the case for consideration of the same on its merits in light of the Decisions that were



taken to uphold or dismiss Taxpayer's objections and in accordance with the requirements of Income Tax Law.

In view of the foregoing, and in light of stated Grounds, the Department unanimously decided as follows:

Decision:

First: Accept Taxpayer's (..... Company, C.R. No., TIN No.) appeal against Decision No. (IZD-2020-131) delivered by the First Department for Determination of Income Tax Violations and Disputes in Dammam in Case No. (IW-7-2018) in connection with Tax Assessment of 2011 and 2012, in form.

Second: On Merits:

1. Accept Taxpayer's appeal on item (Approval of the Offshore Procurement of "SAR 979,492" of 2011), and reverse the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, for the Grounds stated herein.
2. Accept Taxpayer's appeal on item (Approval of Support Services Costs of "SAR 1,140,318" of 2011), and reverse the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, for the Grounds stated herein
3. Accept Taxpayer's appeal on item (Withholding Tax on Payments to "....."), and reverse the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, for the Grounds stated herein.
4. Accept Taxpayer's appeal on item (Withholding Tax on Payments to "....." in United Kingdom of 2011), abolish the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, and remand the case for consideration of the item in question on its merits, for the Grounds stated herein.
5. Accept Taxpayer's appeal on item (Withholding Tax of 15% Instead of 5% on Technical Service Fees Paid to Non-Resident Related Parties), and reverse the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, for the Grounds stated herein.
6. Accept Taxpayer's appeal on item (Late Payment Fine), abolish the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, and remand the case for consideration of the item in question on its merits, for the Grounds stated herein.

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



Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-57
Case No. ZIW-28941-2020

Key words:

Zakat and Tax – Accounts – Projects Under Development – Real Estate Investments – Land

Abstract

The Appellant (Zakat Payer) filed this case to abolish Decision No. (IZD-2020-140) delivered by the Primary Department regarding Zakat and Tax Assessment of 2009 – 2014 AD, The Zakat Payer's appeal regarding (Projects Under Development for the years 2009 to 2014 AD) item lies in the necessity of deducting this item, as the projects are intended for acquisition with no confirmed intent for trading. Similarly, the appeal regarding (Real Estate Investments for the years 2013 and 2014 AD) item emphasizes the need for deducting this item, as it pertains to retained precast concrete panels, and regarding (Land for the year 2014 AD) item, the deduction is sought because the land is intended for acquisition, with no confirmed intent for trading. It has been established to the Department regarding (Projects Under Development for the years 2009 to 2014 AD) item that ZATCA did not provide evidence that could be relied upon to substantiate the occurrence of regular sales transactions for those projects in their pre-completion state. As for (Real Estate Investments for the years 2013 and 2014 AD), no regular sales activities were proven before this Department. Regarding the (Land for the year 2014 AD), it was found that the disputed land was not offered for sale but was instead intended for the establishment of an investment project to be leased. Therefore, the Department ruled to accept the Zakat Payer's appeal regarding (Projects Under Development for the years 2009 to 2014 AD), the (Real Estate Investments for the years 2013 and 2014 AD), and the (Land for the year 2014 AD) items.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

To consider the appeal presented on .././.... AH corresponding to .././.... AD by/ (...), National ID No. (...), in his capacity as the Appellant Company's Attorney pursuant to PoA No. (...) against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam No. (IZD-2020-140), issued in case No. (ZIW-7853-2019), regarding the zakat assessment for the years 2009 to 2014 AD, filed by the Appellant against ZATCA. The primary Decision stated the following:

In from: Accept the Plaintiff's (...) Co. case, C.R No. (...), in form.

On Merits:



1. Dismiss Plaintiff's objection regarding the item of "Statutory Period for Zakat Assessment for the years 2009 and 2010 AD".
2. Dismiss Plaintiff's objection regarding the item of "Projects Under Development for the years 2009 to 2014 AD".
3. Dismiss Plaintiff's objection regarding the item of "Board of Directors Meeting Attendance Allowance Expenses for the years 2009 to 2014 AD".
4. Dismiss Plaintiff's objection regarding the item of "Refundable Deposits from Clients for the years 2010 to 2014 AD".
5. Dismiss Plaintiff's objection regarding the item of "Advance Payments from Clients for the years 2010 to 2014 AD".
6. Dismiss Plaintiff's objection regarding the item of "Withholding Tax for the years 2010, 2013 and 2014 AD".
7. Dismiss Plaintiff's objection regarding the item of "Non-Current Investments for the years 2011 to 2013 AD".
8. Dismiss Plaintiff's objection regarding the item of "Creditors for the years 2010 to 2012 AD".
9. Dismiss Plaintiff's objection regarding the item of "Real Estate Investments for the years 2013 and 2014 AD".
10. Amend Defendant's Decision regarding the item of "Land for the years 2013 and 2014 AD".
11. Dismiss Plaintiff's objection regarding the item of "Retained Earnings for the year 2013 AD".
12. Dismiss Plaintiff's objection regarding the item of "Previous Year Adjustments for the year 2014 AD".

Since Zakat Payer (..... Company) dissatisfied with this Decision; it submitted a statement of appeal summarized as follows:

The Zakat Payer challenges the appealed primary Decision, claiming that, with regard to the item (Projects Under Development for the years 2009 to 2014 AD), these investments are intended for acquisition to generate returns. Evidence for this includes the Company's intent as outlined in its correspondence and feasibility studies for the projects, which were prepared with the option of leasing in some cases or tradeoff between leasing and selling. Additionally, the retention of these projects and the lack of trading over those years, as well as the Company's Decision reflected in the financial statement notes, indicate that the company's intention fluctuates between leasing and selling, meaning there is no definite intent to sell. Furthermore, there are regulatory obstacles that prevent the disposal of the projects. The Zakat Payer, regarding the item (Real Estate Investments for the years 2013 and 2014 AD), claims that these are retained precast concrete panels (precast panels) since early 2008 AD and considered as an acquisition offer. The Zakat payer claims, regarding the item (Land for the year 2014 AD), that it is a plotted land worth SAR (13,506,117), retained for the purpose of acquisition. Moreover, a feasibility study was prepared based on the intention to lease the land and the financial statements consistently show the land as an asset of the company over subsequent years, indicating that it was not disposed of. Based on the foregoing, Zakat Payer requests that the primary Decision be reversed for the stated Grounds.

On Monday 23/05/1443 AH corresponding to 27/12/2021 AD, the Department decided to hold a 10-day e-hearing. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal, maintaining its arguments raised before the Primary Department on items in question. ZATCA noted that the Zakat Payer's arguments do not introduce new points beyond those previously addressed and clarified that, regarding the item (Projects Under Development for the years 2009 to 2014 AD), the primary Decision aligns with the provisions of Ministerial Letter No. (4/8676) for the year



1410 AH, Fatwa No. (2384/2) for the year 1406 AH, and Paragraph (2) of Article (4) of the Implementing Regulations for Zakat Collection. For the item (Real Estate Investments for the years 2013 and 2014 AD), the primary Decision is consistent with Ministerial Letter No. (4/8676) for the year 1410 AH, Fatwa No. (19382) for the year 1418 AH, and Paragraph (1) of Article (4) of the Implementing Regulations for Zakat Collection. Concerning the item (Land), the primary Decision in line with Ministerial Letter No. (4/8676) for the year 1410 AH, Fatwa No. (2384/2) for the year 1406 AH, and Paragraph (2) of Article (4) of the Implementing Regulations for Zakat Collection. Additionally, the Zakat Payer failed to provide any documentation to substantiate the claims made in its declaration as required by Paragraph (3) of Article (20) of the Implementing Regulations for Zakat Collection. Consequently, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision for the aforementioned reasons.

The Department, after reviewing the appeal memoranda and the responses, and after examining the documents and papers contained in the case file, decided that the case was ready for determination and the issuance of a ruling on its merits on Wednesday 08/07/1443 AH corresponding to 09/02/2022 AD. Accordingly, the Department decided to close the pleadings and reserve the case for a final Decision.

Grounds:

Having taken cognizance of Case documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been met in form in accordance with conditions stipulated in relevant laws, regulations, and Decisions. Therefore, the appeal is accepted in form for being filed by a party having capacity and within the prescribed statutory period.

On merit, the Department had made it clear that ZATCA assessment was performed after the expiry of the statutory period for making amendments to Zakat Payer declaration, which is five years from the deadline for submitting the Zakat Payer declaration for the years 2009 to 2011 AD. It is worth noting that these rules are established to maintain transaction stability and prevent instability of Zakat Payer positions in case of absence of a timeframe that ensures maintaining their financial positions not jeopardized. Since this matter does not result in releasing Zakat Payer from his legal obligation if he is already concerned with fulfilling such obligation, but rather represents a procedural issue with relation to ZATCA right to assess zakat payers after the expiry of the period prescribed by law; therefore, the Department concluded that the procedure taken by ZATCA for making amendments was invalid. Consequently, ZATCA is not entitled to reassess the years 2009 to 2011 AD and must accept the Zakat Payer's declaration regarding the components of its zakat base on items in question.

The Zakat Payer's appeal, regarding (Projects Under Development for the years 2009 to 2014 AD) item, is based on the deduction of this item as the projects are intended for acquisition with no confirmed intent for trading. While ZATCA, on the other hand, insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. Having carefully considered the matter in dispute, and having decided to accept the Zakat Payer's declaration for the contested items for the years 2009 to 2011 AD, the Department hereby accepts the Zakat Payer's appeal concerning this item for the years 2009 to 2011 AD. Regarding the years 2012 to 2014 AD, since the dispute pertains to projects that the Zakat Payer is executing with the goal of generating returns either through sale or lease upon their completion, and these projects are not available for sale in their current state before completion, and given that the intent to sell such projects can only be determined after their completion and presentation for sale, these projects do not qualify as inventory for trading purposes. Additionally, ZATCA



failed to provide evidence demonstrating regular sales transactions for these projects in their pre-completion state. Therefore, the Department accepts the Zakat Payer's appeal and overturns the primary Decision on this matter.

The Zakat Payer's appeal, regarding (Real Estate Investments for the years 2013 and 2014 AD) item, is based on the deduction of this item as it consists of retained precast concrete panels and are intended for acquisition with no confirmed intent for trading, while ZATCA, on the other hand, insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. It has been determined, upon reviewing the dispute, that the content of this item consists of materials related to the Zakat Payer's construction activities, used as a basis for building real estate assets, and are not offered for sale. These materials are classified as non-current assets, and there is no evidence of regular sales transactions presented before this Department. Therefore, the Department concludes that the deduction of the value of these disputed materials from the Zakat Payer's base is correct and valid. Consequently, the Department decides to accept the Zakat Payer's appeal and overturn the primary Decision regarding this item.

The Zakat Payer argues, regarding the item (Land for the year 2014), for the deduction of this item as the land is intended for acquisition with no confirmed intent for trading, while ZATCA, on the other hand, insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. It is clear that, upon reviewing the dispute and examining the documents provided by the Zakat Payer, including the Board of Directors' resolution dated 22/09/2007 AD, the land in question was not offered for sale but was intended for an investment project to be leased. Therefore, there is no intent to trade, and consequently, zakat is not applicable. The Department decides to accept the Zakat Payer's appeal and overturn the primary Decision regarding this item.

In view of the foregoing, and in light of stated Grounds, the Department unanimously decided as follows:

Decision:

First: Accept the appeal in form by the Zakat Payer/ (...) Co., CR No. (...), TIN No. (...), against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam No. (IZD-2020-140), issued in case number (ZIW-7853-2019), related to zakat assessment for the years 2009 to 2014 AD.

Second: On Merits:

1. Accept the appeal filed by Zakat Payer regarding the item (Projects Under Development for the years 2009 to 2014 AD) and overturn the Decision taken by the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds mentioned herein.

2. Accept the appeal filed by Zakat Payer regarding the item (Real Estate Investments for the years 2013 and 2014 AD) and overturn the Decision taken by the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds mentioned herein.

3. Accept the appeal filed by Zakat Payer regarding the item (Land for the year 2014 AD) and overturn the Decision taken by the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds mentioned herein.

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



Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-64
Case No. ZIW-30388-2020

Key words:

Zakat and Tax - Accounts - Fixed Assets - Accounts Payable - Late Payment Fines - Depreciation Differences

Abstract

The Appellant (ZATCA) filed this case to abolish Decision No. (IZD-2020-210) delivered by the Primary Department regarding Zakat and Tax Assessment of 2008 – 2011AD, ZATCA's appeal regarding (Depreciation Differences for the years 2008 to 2011 AD), (Fixed Assets), and (Accounts Payable) items, is based on contesting the primary Decision to exclude these items. As for ZATCA's appeal concerning the item (Late Payment Fines), ZATCA is challenging the Primary Department's acceptance of the Zakat Payer's objection to this item. It has been established that for the item (Depreciation Differences for the years 2008 to 2011 AD), the Zakat Payer applied depreciation according to the prescribed rules. For (Fixed Assets) item, ZATCA's assessment was flawed in form, while (Accounts Payable) item was marred by uncertainty. Regarding (Late Payment Fines) item, the fine is void if the principal obligation is extinguished. Consequently, ZATCA's appeal is rejected for all items.

Instruments:

- Article (17) of [the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- Articles (7) and (18/1) of [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

To consider the appeal presented on .. /../.... corresponding to .././.... AD by ZATCA against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam No. (IZD-2020-210), issued in case No. (ZIW-10561-2019), regarding the zakat and tax assessment for the years 2008 to 2011 AD, filed by the Zakat Payer against ZATCA. The primary Decision stated the following:

In from:

Accept the case filed by the Plaintiff/ ... Company, C.R No. (...), in form.

On Merits:

1. Accept Plaintiff's objection regarding the item of "Depreciation Differences for the years 2008 to 2011 AD".
2. Dismiss the item "Maintenance and Repair Expenses Exceeding 4% for the year 2010 AD" in form.
3. Regarding the item "Amounts Payable to Related Parties for the year 2008 AD":
 - A. Confirmation of the resolution of the dispute for an amount of SAR (15,670,112).
 - B. Dismiss Plaintiff's objection regarding the amount of SAR (4,937,259).



4. Amend Defendant's Decision to include an amount of SAR (4,218,797) for the year 2010 AD and SAR (4,889,978) for the years 2011 AD.

5. Dismiss Plaintiff's objection regarding the item of "Partners' Current Accounts for the years 2010 and 2011 AD".

6. Accept Plaintiff's objection regarding the item of "Fixed Assets for the years 2008 to 2011 AD".

7. Dismiss Plaintiff's objection regarding the item of "Carried Forward Losses".

8. Confirmation of the resolution of the dispute concerning the item "Withholding Tax", except for the year 2010 AD.

9. Confirmation of the resolution of the dispute concerning the item "Material Errors".

10. Regarding the Late Payment Fine item:

A. Dismiss Plaintiff's objection regarding the item of "Withholding Tax for the year 2010 AD".

B. Dismiss Plaintiff's objection regarding the item of "Income Tax for the year 2011 AD". Since ZATCA dissatisfied with this Decision; it submitted a statement of appeal summarized as follows:

ZATCA challenges the appealed primary Decision, claiming that, regarding (Depreciation Differences for the years 2008 to 2011 AD) item, it applied provisions of Article (17) of the Income Tax Law. Upon comparing the Zakat Payer's statement for the year 2007 AD with the measure taken by ZATCA, it was found to be consistent. However, with respect to the year 2008 AD, a comparison of the submitted statement with the depreciation schedule according to the financial statements for 2008 AD revealed discrepancies, which resulted in differences for the subsequent years. Regarding the item (Fixed Assets), after examining the audited financial statements for the years 2007 and 2008 AD, the Zakat Payer's declaration, and its accompanying schedules, it was discovered that there was an error in the classification of fixed assets (Statement No. 4) attached to the Zakat Payer's declaration. Consequently, ZATCA reclassified the schedule correctly in accordance with the provisions of Article (17) of the Income Tax Law, resulting in understatements for the years 2008-2009 AD and overstatements for the years 2010-2011 AD. With respect to the item (Accounts Payable for the years 2010 and 2011 AD), the Zakat Payer failed to provide the details requested by ZATCA, thereby violating the provisions of Article (18/1) of the Implementing Regulations for Zakat Collection for 1438 AH. The submitted statements cannot be relied upon for accuracy as they lack dates indicating the payment movements for each account. Additionally, the nature of each account's transactions is not clarified, making it difficult to verify whether the supplies pertain to trading stock, which would be treated based on the principle of a full year's cycle, or if the supplies relate to non-current assets, in which case the value used to finance these assets would be deducted from the base. On the other hand, a study of the cash available during the year based on the cash flow statement in the audited financial statements for the years 2010 and 2011 AD revealed a deficit in the cash available from operating activities while there were additions to fixed assets. This is attributed to the financing of accounts payable that had not yet completed a full year's cycle for the purchases of these added assets. Regarding the item (Late Payment Fines), ZATCA insists on accuracy and correctness of its procedure, which aligns with the provisions of the law and the regulations concerning the contested items, based on the justifications presented in the statement of appeal. Therefore, ZATCA requests overturning the primary Decision for the aforementioned Grounds.

The Department decided to open the pleadings, where the Zakat Payer submitted a Reply dated 14/05/1442 AH corresponding to 28/12/2020 AD in response to ZATCA's appeal. That Zakat Payer, regarding (Depreciation Differences) and (Fixed Assets) items, stated that the notes provided in the financial statements and extracted therefrom offer a complete overview of the tax and zakat depreciation for the years in dispute, in accordance



with Article 17 of the Tax Regulations. Moreover, the Zakat Payer, regarding the item (Accounts Payable), claimed that ZATCA and the General Secretariat of the Zakat, Tax and Customs Committees were provided with a statement detailing the movements and nature of these amounts. As for the item (Late Payment Fines for Income Tax), the Zakat Payer argued that the fine is imposed from the date of a final and binding Decision on the dispute, not from the date of the tax becoming due as claimed by ZATCA. Therefore, the Zakat Payer requests dismissal of the ZATCA's appeal and affirmation of the appealed primary Decision for the aforementioned Grounds.

On Tuesday, 09/01/1443 AH corresponding to 17/08/2021 AD, the Department decided to hold a 10-day electronic pleading hearing. Consequently, the Zakat Payer presented a number of documents.

On Tuesday, 28/02/1443 AH, corresponding to 05/10/2021 AD, after reviewing ZATCA's request to hold an in-person hearing regarding its appeal against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, and after examining the case file, the Department decided to grant ZATCA's request for a virtual hearing and therefore requested the Secretariat to contact both the Zakat Payer and ZATCA by phone, ensuring that the notification is given at least two weeks before the scheduled session date.

On Tuesday 20/03/1443 AH corresponding to 26/10/2021 AD, the hearing was held via video conferencing in accordance with remote litigation procedures, based on item (2) of Article (15) of Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH to consider the appeal presented by ZATCA against (...) Company, and in the presence of the Plaintiff's Representative/ (...), National ID No. (...), under PoA No. (...), and the Defendant's Representative (...), National ID No. (...), appeared by virtue of an authorization issued by ZATCA's Deputy Governor for Legal Affairs No. (.../.../.....) dated /../ Having asked ZATCA's Representative regarding their appeal against the Zakat Payer, he replied as follows: ZATCA affirms the provisions of Article (76) of Law of Civil Procedures by asserting that the Company's Representative, (...), National ID No. (...), is not qualified to plead, as she is not a licensed Attorney and has been excluded from various determination departments, as confirmed by a Royal Court directive and the Royal Decree No. (59031) dated 05/11/1443 AH, restricting representation in litigation to licensed Attorneys. Since this objection can be raised at any stage of the legal process, and the court may rule on it sua sponte, ZATCA confirms the aforementioned. As for ZATCA's appeal, it reiterates the details provided in its statement of appeal comprehensively. Having asked the Zakat Payer's Attorney, she replied as follows: Regarding ZATCA's objection to the company's Representative's capacity, it is stated that the attendee (...) is a tax consultant present alongside the Zakat Payer's legal Representative, (...). As for the supplementary memorandum submitted by ZATCA, we have not reviewed it. Accordingly, the Department decided to grant both parties to the appeal a period of ten (10) days to submit any additional information they have regarding this appeal and requested the Secretariat to send ZATCA's supplementary memorandum to the Zakat Payer.

The Department, after reviewing the appeal memoranda and the responses, and after examining the documents and papers contained in the case file, decided that the case was ready for determination and the issuance of a ruling on its merits on Wednesday 15/07/1443 AH corresponding to 16/02/2022 AD. Accordingly, the Department decided to close the pleadings and reserve the case for a final Decision.

Grounds:

The Department, upon reviewing the case documents and the statement of appeal submitted by ZATCA, determined that the appeal meets the formal requirements for



consideration, in accordance with the provisions stipulated in relevant laws, regulations and Decisions. Therefore, the appeal is accepted in form for being submitted by a party having capacity. The objection raised by ZATCA's Representative regarding the lack of capacity of the company's Representative is without merit, as this Department confirmed the validity and legitimacy of the Zakat Payer's legal Representative's authorization. Furthermore, the Department did not find any requirement for correction or further response on this matter. It was also confirmed that the appeal was submitted within the statutory prescribed period.

As for merits of the case, the Department, upon examining the case file, finds that ZATCA's appeal regarding the item (Depreciation Differences for the years 2008 to 2011 AD) is based on its objection to the primary Decision to exclude this item. ZATCA argued that, upon comparing the statement submitted by the Zakat Payer with the procedure undertaken by ZATCA, it is evident that it is consistent with provisions of Article (17) of the Income Tax Law. Conversely, the Zakat Payer argued in response that ZATCA's appeal should be dismissed and the primary Decision should be upheld. The Department found that the Zakat Payer's classification of fixed assets was in accordance with Article (17) of the Tax Law. The differences, amounting to SAR (3,075,585) for the year 2008 AD, were related to capital work in progress and had not been added to the depreciation schedule, as this type of depreciation is not deductible. Since ZATCA did not dispute the Zakat Payer's claim regarding the nature of this difference, and since the Zakat Payer applied depreciation according to the rules set forth in Article (17) of the Income Tax Law, the Department concludes to dismiss ZATCA's appeal and uphold the primary Decision. Regarding ZATCA's appeal concerning the item (Fixed Assets), the crux of the appeal lies in ZATCA's objection to the primary Decision to exclude this item and ZATCA argued that, after examining the financial statements and the Zakat Payer's declaration along with the accompanying schedules, an error was found in the classification of fixed assets. Consequently, ZATCA reclassified the schedule to correct it in accordance with the provisions of Article (17) of the Income Tax Law. However, the Zakat Payer argued, requesting dismissing ZATCA's appeal and upholding the primary Decision. This Department upheld the primary Decision concerning the item "Depreciation Differences for the years 2008 to 2011 AD" and whereas ZATCA's appeal on this item was based on its determination of the value of fixed assets deducted from the base in accordance with Article (7) of the Implementing Regulations for Zakat Collection issued under Ministerial Decision No. (2082) of 1438 AH. Since these Regulations were issued subsequent to the years in dispute, its provisions shall only apply to matters arising after its effective date and shall not retroactively affect matters that occurred prior to its enactment, pursuant to the principle of non-retroactivity of laws. It was found, upon reviewing ZATCA's assessment notice sent to the Zakat Payer, that the notice did not fulfill the formal requirements stipulated by law. Specifically, the assessment lacks a statement of reasons for the amendment, which is necessary for the Zakat Payer to submit a substantiated objection. Therefore, this Department concludes that ZATCA's assessment was flawed in form, rendering it an invalid administrative Decision. Consequently, this Department decides to accept the Zakat Payer's declaration. Given the foregoing, this Department concludes to dismiss ZATCA's appeal and uphold the primary Decision.

Regarding ZATCA's appeal concerning the item (Accounts Payable), it is based on its objection to the primary Decision to exclude this item; because the submitted statements cannot be relied upon due to the lack of dates for payment transactions and the nature of dealings for each account. Furthermore, the Zakat Payer failed to provide the details requested by ZATCA, in violation of Article (18/1) of the Implementing Regulations for Zakat Collection of 1438 AH. However, the Zakat Payer argued, requesting dismissing ZATCA's appeal and upholding the primary Decision. It was found, upon reviewing



ZATCA's assessment notice sent to the Zakat Payer, that the notice did not fulfill the formal requirements stipulated by law. Specifically, the assessment lacks a statement of reasons for the amendment, which is necessary for the Zakat Payer to submit a substantiated objection. Therefore, this Department concludes that ZATCA's assessment was flawed in form, rendering it an invalid administrative Decision. Consequently, this Department decides to accept the Zakat Payer's declaration. Given the foregoing, this Department concludes to dismiss ZATCA's appeal and uphold the primary Decision. ZATCA's appeal, regarding the item (Late Payment Fine), lies in ZATCA's objection to the primary Decision to accept the Zakat Payer's objection to this item. ZATCA argued that the fines were imposed in accordance with the provisions of the Income Tax Law and its Implementing Regulations. However, the Zakat Payer argued, requesting dismissing ZATCA's appeal and upholding the primary Decision. It was found upon reviewing the primary Decision that the late payment fine was related to ZATCA's procedure concerning the depreciation differences for the years 2008 to 2011 AD. Since this Department dismissed ZATCA's appeal and upheld the primary Decision regarding the depreciation differences for the disputed years, and since the fine is void if the principal obligation is extinguished, this Department concluded to dismiss ZATCA's appeal regarding this item. In view of the foregoing, and in light of stated Grounds, the Department unanimously decided as follows:

Decision:

First: Accept ZATCA's appeal against Decision No. (IZD-2020-210) delivered by the First Department for Determination of Income Tax Violations and Disputes in Dammam in Case No. (ZIW-10561-2019) in connection with Zakat and Tax Assessment of 2008 – 2011, in form.

Second: On Merits:

- 1. Dismiss ZATCA's appeal regarding the item (Depreciation Differences for the years 2008 to 2011 AD) and uphold the Decision taken by the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds mentioned herein.**
- 2. Dismiss ZATCA's appeal regarding the item (Fixed Assets for the years 2008 to 2011 AD) and uphold the Decision taken by the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds mentioned herein.**
- 3. Dismiss ZATCA's appeal regarding the item (Accounts Payable for the years 2010 and 2011 AD) and uphold the Decision taken by the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds mentioned herein.**
- 4. Dismiss ZATCA's appeal regarding the item (Late Payment Fine) and uphold the Decision taken by the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds mentioned herein.**

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



Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-166
Case No. Z-33038-2020

Key words:

Zakat and Tax - Accounts - Calculation of Tax and Zakat - Withholding Tax on Insurance Installments - Late Payment Fine

Abstract

The Appellant (Zakat Payer) requests to cancel the primary Decision No. (IFR-2020-288) regarding zakat assessment for the years 2007 to 2012 AD. The Zakat Payer's appeal regarding the items (Withholding Tax on Insurance Installments for the years 2007 and 2008 AD), (Calculation of Tax and Zakat Based on the Financial Statements for the years 2007 and 2008 AD), and (Late Payment Fine) is based on objections to the imposition of fines related to these items, which are grounded in the ministerial Decision applied retroactively. The Department found, regarding (Calculation of Tax and Zakat Based on the Financial Statements for the years 2007 and 2008 AD), that ZATCA's zakat assessment was conducted after the statutory prescribed period for making amendments to the Zakat Payer's declaration. Regarding the item (Withholding Tax on Insurance Installments for the years 2007 and 2008 AD), the amounts of withholding tax required from the Zakat Payer were not substantiated by the necessary criteria for their collection from ZATCA for the disputed years. Regarding the item (Late Payment Fine), since the late payment fine is associated with the contested items, the fine is void since the principal obligation is extinguished. Therefore, the Department ruled to accept the Zakat Payer's appeal on all items and overturn the primary Decision.

Instruments:

- Articles (65/A) of [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)

Facts:

To consider the appeal presented on .././.... Corresponding to .././.... AD by/ ..., National ID No. (...), in his capacity as the Attorney of the Appellant Company pursuant to PoA issued from UAE and authenticated by the official authorities in KSA against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh No. (IFR-2020-288), issued in case No. (Z-191-2018), regarding the zakat assessment for the years 2007 to 2012, filed by the Appellant against ZATCA. The primary Decision stated the following:

Dismiss the Plaintiff's/ ... Co. (TIN No. ...) objection against the Defendant's/ZATCA Decision regarding the zakat assessment in question.

Since Taxpayer (..... Company) dissatisfied with this Decision; it submitted a statement of appeal summarized as follows:

The Zakat Payer challenges the primary Decision, claiming that the Primary Department based its ruling on Ministerial Decision No. (2194), which was issued years after the



submission of the declarations for the years 2007 and 2008 AD. Moreover, the Zakat Payer contends that the aforementioned Decision is merely a clarification and not a regulation in itself. Therefore, the Zakat Payer requests the overturning of the primary Decision in all its aspects for the aforementioned Grounds.

On Tuesday 29/06/1443 AH corresponding to 01/02/2022 AD, the Department decided to hold a 10-day e-hearing. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal, maintaining its arguments raised before the primary department. ZATCA stated that, regarding the item (Calculation of Tax and Zakat Based on the Financial Statements for the years 2007 and 2008 AD), the primary Decision was in line with the provisions of Paragraph (B/2) of Article (3) of the Income Tax Law, Ministerial Decision No. (2194) of 1432 AH, and Paragraph (1) of Article (12) of the Implementing Regulations for Zakat Collection issued in 1438 AH. Regarding the item (Withholding Tax on Reinsurance Installments for 2007 and 2008 AD), ZATCA noted that the primary Decision complied with the provisions of Paragraph (1) and Paragraph (8) of Article (63) of the Implementing Regulations of Income Tax Law. ZATCA, concerning (Late Payment Fine) item, referenced Paragraph (A) of Article (77) of the Income Tax Law and Paragraph (1/B) of Article (68) of the Implementing Regulations of Income Tax Law. Moreover, ZATCA requested that the department not accept any new requests based on Article (186) of Law of Civil Procedures. Accordingly, ZATCA requests dismissing the Zakat Payer's appeal and upholding the primary Decision on the contested items for the aforementioned Grounds.

The Department, after reviewing the appeal memoranda and the responses, and after examining the documents and papers contained in the case file, decided that the case was ready for determination and the issuance of a ruling on its merits on Thursday 06/09/1443 AH corresponding to 07/04/2022 AD. Accordingly, the Department decided to close the pleadings and reserve the case for a final Decision.

Grounds:

Upon reviewing Case documents and statement of appeal submitted by Zakat Payer, the Department found that conditions of appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations, and Decisions. Therefore, the Appeal request was accepted in form for being submitted by a person with legal capacity and within the statutory prescribed period.

As for merits of the case, the Zakat Payer's appeal, regarding the item (Calculation of Tax and Zakat Based on the Financial Statements for the years 2007 and 2008 AD), is based on an objection to the Primary Department's retroactive application of the ministerial Decision. In contrast, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. Having carefully considered the subject matter of the dispute and examined the documents contained in the case file, the Department finds that ZATCA's tax assessment was after lapse of the statutory period for making amendment to Zakat Payer's declaration of five years from the deadline for filing Zakat Payer's zakat declaration for each year. Article (65/a) of the regulations explicitly states that ZATCA's right to amend the assessment is limited to five years from the end of the due date for submitting the tax declaration. ZATCA's right to amend the assessment within ten (10) years from the end of the submission deadline only applies in cases where the Zakat Payer has failed to file a declaration at all or where it is found that the declaration was incomplete or incorrect with the intent of tax evasion. In the present case, reopening the assessment after the lapse of the five-year period, as provided by law for ZATCA to exercise its right to make amendments, does not align with the circumstances under review. Moreover, since the Department's examination of the appealed Decision and ZATCA's arguments during the



proceedings did not reveal any evidence suggesting that the Zakat Payer had committed tax evasion, the reopening of the assessment is neither valid nor consistent with the provisions of Article 65(a), which stipulates that a tax declaration becomes final if five years have elapsed from the end of the prescribed deadline for filing it, unless ZATCA exercises its right to make an amendment within that period or proves that there was an intent of tax evasion in filing an incomplete declaration within ten years of the end of the prescribed deadline for filing the same. The legal and financial stability of the Zakat Payer's position is a key objective emphasized by the law, which limits ZATCA to the five-year period for reopening the assessment, except in cases of tax evasion. Even in such cases, ZATCA's right to reopen the assessment is restricted to a ten-year period. Reopening an assessment without a basis in the provisions of the regulations, as explained above, undermines the goal of providing legal and financial certainty for zakat payers. Accordingly, this Department concludes that ZATCA is not entitled to reopen the assessment for the years 2007 and 2008 AD.

The Zakat Payer's appeal, regarding the item (Withholding Tax on Reinsurance Installments for the years 2007 and 2008 AD), is based on an objection to the Primary Department's retroactive application of the ministerial Decision. In contrast, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. It is evident that, upon careful consideration of the dispute and after reviewing the case file, as well as examining the clear conditions and requirements set forth in the Tax Law for determining the obligation to pay withholding tax on amounts paid to a zakat payer outside the Kingdom, the duty to pay and remit the tax amount to ZATCA only arises upon the actual payment or its equivalent, such as settlements in accounts between the headquarters and branch, offsets, or any other means by which the obligation to pay such amounts from the service recipient to the non-resident service provider is discharged. Given that the appealed Decision relied on the assumption that the reinsurance amount owed by the branch of the non-resident company to the headquarters of the non-resident company is considered due simply upon its recording as a payable amount, without evidence of actual payment or any equivalent process, the withholding tax amounts that the Zakat Payer was required to remit to ZATCA for the years in question were not warranted, because the actual payment event, as previously outlined, did not occur. Consequently, the Zakat Payer's position is upheld, confirming that ZATCA has no right to demand the remittance of those amounts merely because they were recorded as payables. Therefore, this Department concludes to accept the Zakat Payer's appeal and overturn the primary Decision regarding this item.

The Zakat Payer's appeal, regarding (Late Payment Fine) item, is based on the objection to imposition of the fine arising from provisions based on a ministerial Decision applied retroactively. In contrast, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. Upon careful consideration of the dispute and review of the case file, since this Department has upheld the Zakat Payer's appeal, and given that the late payment fine is directly tied to the contested items, the fine is void as the principal obligation is extinguished. Therefore, the Department decides to accept the Zakat Payer's appeal and overturn the primary Decision regarding this item.

Based on the foregoing and considering the aforementioned reasons, the Department unanimously decided as follows:

Decision:

First: Accept the appeal in form by the Zakat Payer/ (...) company, CR No. (...), TIN No. (...), against the Decision of the First Department for Determination of Income Tax



Violations and Disputes in Riyadh No. (IFR-2020-288), issued in case number (Z-191-2018), related to zakat assessment for the years 2007 to 2012 AD.

Second: On Merits:

1. Accept The Zakat Payer's appeal regarding (Calculation of Tax and Zakat Based on the Financial Statements for the years 2007 and 2008 AD) item and overturn the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the reasons and justifications stated herein.
 2. Accept the Zakat Payer's appeal regarding (Withholding Tax on Reinsurance Installments for 2007 and 2008 AD) item and overturn the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the reasons and justifications stated herein.
 3. Accept the Zakat Payer's appeal regarding (Late Payment Fine) item and overturn the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the reasons and justifications stated herein.
- May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.



Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-172

Case No. ZIW-31963-2020

Key words:

Zakat and Tax - Accounts - Expiration of the Statutory Period for Amending the Tax Declaration - Travel and Hotel Expenses

Abstract

The Appellant (ZATCA/ Zakat Payer) requests cancellation of the primary Decision No. (IFR-2020-164) regarding zakat assessment for the years 2010 to 2013 AD. The Zakat Payer's appeal, regarding (Expiration of the Statutory Period for Amending the Tax Declaration for the years 2010 and 2011) item, lies in the objection to ZATCA's amendment of its declaration after lapse of the statutory period. Furthermore, the Zakat Payer's appeal regarding (Travel and Hotel Expenses for the years 2012 and 2013 AD) and (Rent Expenses for the years 2012 and 2013 AD) items, is based on arguing that this item should be deducted, as it is documented and necessary for income-generating activities. ZATCA's appeal, regarding (Depreciation Differences for the years 2010 to 2013 AD) item, is based on objection to the Primary Department acceptance of the Zakat Payer's objection concerning this item. The Department, in relation to (Expiration of the Statutory Period for Amending the Tax Declaration for the years 2010 and 2011 AD) item, found that ZATCA's right to amend assessment within ten (10) years from the end of the due date for submitting the declaration only applies in cases where the Zakat Payer fails to provide a declaration at all. Furthermore, regarding the items (Travel and Hotel Expenses for the years 2012 and 2013 AD) and (Rent Expenses for the years 2012 and 2013 AD), ZATCA failed to present any evidence to refute the Zakat Payer's claims. Therefore, the Department ruled to accept the Zakat Payer's appeal in all items, overturn the primary Decision, and dismiss ZATCA's appeal in all items

Instruments:

- Articles (65/A) of [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)

Facts:

To consider the appeal presented on .././.... Corresponding to .././.... by/ ..., National ID No. (...), in his capacity as the Attorney of the Appellant Company pursuant to PoA No. (...) and Appeal No. (...) filed on .././.... AH corresponding to .././ /.... by ZATCA against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh No. (IFR-2020-164), issued in case No. (ZIW-6-2018), regarding the zakat assessment for the years 2010 to 2013 AD, filed by the Appellant against ZATCA. The primary Decision stated the following:

First: Abolish the Defendant's action/ ZATCA against Plaintiff/ (...) Co., TIN No. (...), regarding depreciation differences for the years 2010 to 2013 AD, subject matter of the Case.



Second: Dismiss the objection of the Plaintiff/ (...) Co., TIN No. (...), Against Defendant/ZATCA Decision with relation to travel expenses for the years 2010 to 2013 AD, subject matter of the Case.

Third: Dismiss the objection of the Plaintiff.....Company TIN No. (...), Against Defendant/ZATCA Decision with relation social insurance for the years 2010 to 2013 AD, subject matter of the Case.

Fourth: Dismiss the objection of the Plaintiff.....Company TIN No. (...), Against Defendant/ZATCA Decision with relation to increased rent expenses for the years 2010 to 2013 AD, subject matter of the Case.

Fifth: Dismiss the objection of the Plaintiff.....Company TIN No. (...), Against Defendant/ZATCA Decision with relation to increased bonuses for the years 2010 to 2013 AD, subject matter of the Case.

Sixth: Dismiss the objection of the Plaintiff.....Company TIN No. (...), Against Defendant/ZATCA Decision with relation to other increased allowances for the year 2012 AD, subject matter of the Case.

Seventh: Dismiss the objection of the Plaintiff.....Company TIN No. (...), Against Defendant/ZATCA Decision with relation to executive bonuses for the years 2010 to 2013 AD, subject matter of the Case.

Eighth: Abolish the Defendant's action/ ZATCA against Plaintiff/ (...) Co., TIN No. (...), regarding withholding tax on reinsurance installments for the years 2010 to 2014 AD, subject matter of the Case.

Ninth: Resolution of dispute between the Plaintiff/ (...) Co., TIN No. (...), and the Defendant/ ZATCA regarding the withholding tax on services provided to (...) Company -United Kingdom, for the year 2011 AD, subject matter of the Case.

X: Resolution of dispute between the Plaintiff/ (...) Co., TIN No. (...), and the Defendant/ ZATCA regarding the withholding tax on distributed profits for the years 2013 AD, subject matter of the Case.

Eleventh: Amend the Defendant's Decision / ZATCA regarding imposition of a fine on the Plaintiff/ (...) Co., TIN No. (...), subject matter of the Case, in accordance with the reasons set forth herein.

Since both parties to the Case dissatisfied with this Decision; they submitted a statement of appeal summarized as follows:

As for Zakat Payer's appeal against the Primary Department's Decision in question, it included the following: The Zakat Payer, regarding (Expiration of the Statutory Period for Amending the Tax Declaration for the years 2010 and 2011 AD) item, claims that its declarations for 2010 and 2011 should be accepted in accordance with Article (65) of the Tax Law. Additionally, the declaration is considered accepted if the Zakat Payer did not receive a notification regarding it, as stipulated by Article (59) of the Implementing Regulations. The Zakat Payer, regarding (Travel and Hotel Expenses for the years 2010 to 2013 AD), (Social Insurances), (Rents), (Increased Bonuses), (Allowances), and (Executive Bonuses) items, claims that these are necessary expenses for generating income, related to the activity, and included in the financial statements audited by a certified public accountant. Therefore, the Zakat Payer requests overturning the primary Decision regarding the contested items based on the aforementioned Grounds.

As the Decision was not accepted by ZATCA, it filed its appeal against the contested Decision, as detailed in the following statement of appeal:

ZATCA, regarding its appeal on the item (Depreciation Differences for the years 2010 to 2013 AD), clarifies that its amendment was based on the fact that the dispute is document-based, and the burden of proof falls on the Zakat Payer. Since the disputed differences arose from the exclusion of depreciation expenses for the item "Leasehold Improvements," and the Zakat Payer failed to provide supporting documents during the



audit or with the objection, the depreciation differences should not be accepted. Regarding the item "Withholding Tax on Reinsurance Installments for the years 2010 to 2014 AD), ZATCA demonstrates that the payment event involves the settlement of liabilities by any means, whether through standard direct payments, offsetting, reconciliation between accounts payable and receivable, or any other method that ultimately results in the financial clearance between the parties involved. Therefore, the actual payment date to non-resident entities should not be considered. ZATCA, with regards to (Late Payment Fine) item, clarifies that the late payment fine is calculated from the statutory due date for filing the declaration until the date of payment, which has been imposed on the Zakat Payer . Therefore, ZATCA insists on accuracy and correctness of its procedures and requests upholding its action and overturning the primary Decision with respect to the contested items under ZATCA's appeal for the aforementioned reasons. On Tuesday 29/06/1443 AH corresponding to 01/02/2022 AD, the Department decided to hold a 10-day e-hearing. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal, maintaining its arguments raised before the primary department with respect to the contested items under Zakat Payer's appeal. ZATCA, regarding (Expiration of the Statutory Period for Assessment for the years 2010 and 2011 AD), clarifies that the Zakat Payer did not initially object to this item before ZATCA , and therefore, there is no reason to consider the Zakat Payer's request in this regard, based on Article (2) and Article (3) of Tax Dispute and Violation Committee Procedures, Article (22) of the Implementing Regulations for Zakat Collection issued in 1438 AH, and Paragraph (4/a) of the same Article. ZATCA requested that this item be dismissed. ZATCA, regarding (Travel Expenses for the years 2010 to 2013 AD), (Social Insurances for the years 2010 to 2013 AD), (Increased Rent Expenses for the years 2010 to 2013 AD), and (Increased Bonuses for the years 2010 to 2013 AD), (Increased Other Allowances for the year 2012 AD), and (Executive Bonuses for the years 2010 to 2013 AD) item, insists on the validity of its actions regarding these items. The dispute revolves around documentation and the discrepancies resulting from comparing the year's final figures with the documents and data provided by the Zakat Payer, which were, upon reviewing, deemed insufficient, leading to the disputed differences. The Zakat Payer's objection lacked any supporting documentation. ZATCA requested that no new documents from the Zakat Payer be accepted, as they were not previously submitted during the audit and objection stages. Furthermore, ZATCA requested that the Department dismiss any new requests from the Zakat Payer based on Article (186) of Law of Civil Procedures. Therefore, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision regarding the contested items for the aforementioned reasons. Additionally, the Zakat Payer submitted a supplementary memo, in which it requested dismissal of ZATCA's appeal and upholding the primary Decision regarding the contested items under ZATCA's appeal.

On Sunday 16/09/1443 AH, corresponding to 17/04/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds:

Upon reviewing Case documents and statement of appeal submitted by Zakat Payer, the Department found that conditions of appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations, and Decisions. Therefore, the Appeal



request was accepted in form for being submitted by a person with legal capacity and within the statutory prescribed period.

As for the merits of case, regarding the Zakat Payer's appeal concerning the item (Expiration of the Statutory Period for Amending the Tax Declaration for the years 2010 and 2011 AD), the Zakat Payer's appeal is based on objecting to ZATCA's amendment to its declaration after the statutory period had elapsed without receiving any notification from ZATCA. In response, ZATCA argued that it insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal. Having carefully considered the subject matter of the dispute and examined the documents contained in the case file, the Department finds that tax declarations for the years 2010 and 2011 AD are governed by the provisions established in the Tax Law and the Implementing Regulations, which regulate the process and procedure for amending the tax assessment. Article (65/a) of the regulations explicitly states that ZATCA's right to amend the assessment is limited to five years from the end of the due date for submitting the tax declaration. ZATCA's right to amend the assessment within ten (10) years from the end of the submission deadline only applies in cases where the Zakat Payer has failed to file a declaration at all or where it is found that the declaration was incomplete or incorrect with the intent of tax evasion. In the present case, reopening the assessment after the lapse of the five-year period, as provided by law for ZATCA to exercise its right to make amendments, does not align with the circumstances under review. Moreover, since the Department's examination of the appealed Decision and ZATCA's arguments during the proceedings did not reveal any evidence suggesting that the Zakat Payer had committed tax evasion with the intent to deliberately conceal information, the reopening of the assessment is neither valid nor consistent with the provisions of Article 65(a), which stipulates that a tax declaration becomes final if five years have elapsed from the end of the prescribed deadline for filing it, unless ZATCA exercises its right to make an amendment within that period or proves that there was an intent of tax evasion in filing an incomplete declaration within ten years of the end of the prescribed deadline for filing the same. The legal and financial stability is a key objective emphasized by the law, which limits ZATCA to the five-year period for reopening the assessment, except in cases of tax evasion. Even in such cases, ZATCA's right to reopen the assessment is restricted to a ten-year period. Reopening an assessment without a basis in the provisions of the regulations, as explained above, undermines the goal of providing legal and financial certainty for zakat payers. Accordingly, this Department concludes that ZATCA is not entitled to reopen the assessment for the years 2010 and 2011 AD and decides to accept the Zakat Payer's appeal on all items that the Zakat Payer appealed for the years 2010 and 2011 AD.

The Zakat Payer's appeal, regarding (Travel and Hotel Expenses for the years 2012 and 2013 AD) item, is based on the deduction of this item from the base as it is documented and necessary for the income-generating activity. However, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. Having carefully considered the subject matter of the dispute and examined the documents contained in the case file, the Department finds that travel expenses are deductible from the base if it is proven that the Zakat Payer incurred these expenses. Since the Zakat Payer provided evidence of incurring the disputed expenses and ZATCA failed to present any counter-evidence, the Department decides to accept the Zakat Payer's appeal and overturn the primary Decision in this regard.

The Zakat Payer's appeal, regarding (Social Insurances for the years 2012 and 2013 AD) item, is based on the deduction of this item from the base as it is documented and necessary for the income-generating activity. However, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. The Department, upon careful consideration of the dispute and



examining the case file, and since the Zakat Payer failed to provide any evidence to the Primary Department or this Department to support its claim, ascertained the correctness of the conclusion reached by the Primary Department, issuer of the appealed Decision, and that the reasons upon which the earlier Decision was based are sufficient to uphold it, this Department hereby dismisses ZATCA's appeal and affirms the primary Decision in this regard.

The Zakat Payer's appeal, regarding (Rents for the years 2012 and 2013 AD) item, is based on the deduction of this item from the base as it is documented and necessary for the income-generating activity. However, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. Having carefully considered the subject matter of the dispute and examined the documents contained in the case file, the Department finds that rent expenses are deductible from the base if it is proven that the Zakat Payer incurred these expenses. Since the Zakat Payer provided evidence of incurring the disputed expenses and ZATCA failed to present any counter-evidence, the Department decides to accept the Zakat Payer's appeal and overturn the primary Decision in this regard.

The Zakat Payer's appeal, regarding (Increased Bonuses for the years 2012 and 2013 AD) item, is based on the deduction of this item from the base as it is documented and necessary for the income-generating activity. However, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. Having carefully considered the subject matter of the dispute and examined the documents contained in the case file, the Department finds that bonus expenses are deductible from the base if it is proven that the Zakat Payer incurred these expenses. Since the Zakat Payer provided evidence of incurring the disputed expenses and ZATCA failed to present any counter-evidence, the Department decides to accept the Zakat Payer's appeal and overturn the primary Decision in this regard.

The Zakat Payer's appeal, regarding (Allowances for the years 2012 and 2013 AD) item, is based on the deduction of this item from the base as it is documented and necessary for the income-generating activity. However, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. Having carefully considered the subject matter of the dispute and examined the documents contained in the case file, the Department finds that allowance expenses are deductible from the base if it is proven that the Zakat Payer incurred these expenses. Since the Zakat Payer provided evidence of incurring the disputed expenses and ZATCA failed to present any counter-evidence, the Department decides to accept the Zakat Payer's appeal and overturn the primary Decision in this regard.

The Zakat Payer's appeal, regarding (Executive Bonuses for the years 2012 and 2013 AD) item, is based on the deduction of this item from the base as it is documented and necessary for the income-generating activity. However, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. Having carefully considered the subject matter of the dispute and examined the documents contained in the case file, and considering that it is legally established that all ordinary and necessary expenses incurred to generate taxable income are deductible, provided that these expenses are proven and directly related to earning the taxable income. Since the Zakat Payer provided evidence of incurring these expenses by submitting audited financial statements and supporting payment vouchers, it has been determined that the Zakat Payer's position is valid. ZATCA's argument that the Zakat Payer failed to submit a work regulation does not affect the acceptance of the expense, as long as it is proven that the expense was incurred. There is no regulatory requirement that limits the acceptance of this expense to the existence of an organizational regulation



specifying it. Given these considerations, the Department decides to accept the Zakat Payer's appeal and overturn the primary Decision in this regard.

ZATCA's appeal, regarding the item (Depreciation Differences for the years 2010 to 2013 AD), lies in ZATCA's objection to the primary Decision to accept the Zakat Payer's objection to this item. ZATCA argues that the dispute is document-based and that the Zakat Payer failed to provide supporting documents for its claim. However, the Zakat Payer argued, requesting dismissing ZATCA's appeal and upholding the primary Decision. The Department, upon careful consideration of the dispute and examining the case file, ascertained the correctness of the conclusion reached by the Primary Department, issuer of the appealed Decision, and that the reasons upon which the earlier Decision was based are sufficient to uphold it. ZATCA's argument that the Zakat Payer failed to provide supporting documents does not affect the case, as the specific documents required were not clarified. Depreciation expenses are determined by the Zakat Payer's accounting entries based on its estimate of the asset's useful life and statutory depreciation rates. Since these entries were reviewed and the Zakat Payer provided audited financial statements, these documents serve as supporting evidence for the incurred expense. Consequently, the Department decides to dismiss ZATCA's appeal and uphold the primary Decision in this regard.

ZATCA's appeal, regarding the item (Withholding Tax on Reinsurance Installments for 2010 to 2014 AD), lies in ZATCA's objection to the primary Decision to accept the Zakat Payer's objection to this item. ZATCA argues that the dispute is document-based and that the Zakat Payer failed to provide supporting documents for its claim. However, the Zakat Payer argued, requesting dismissing ZATCA's appeal and upholding the primary Decision. Having carefully considered the subject matter of the dispute and examined the documents contained in the case file, the Department finds that withholding tax is imposed on amounts paid to non-resident entities in the Kingdom and is due at the time of payment. Since ZATCA failed to prove the payment event concerning the disputed amounts, and the Zakat Payer provided a detailed monthly statement of the amounts paid and the corresponding tax withheld, it becomes evident that the Zakat Payer's position is valid. ZATCA's argument that the fact of actual payment can take any form is also without merit, as ZATCA failed to provide evidence of the forms of payment mentioned in its appeal. Therefore, the Department decides to dismiss ZATCA's appeal and uphold the primary Decision in this regard.

ZATCA's appeal, regarding the item (Late Payment Fine), lies in ZATCA's objection to the primary Decision to accept the Zakat Payer's objection to this item. ZATCA requests the calculation of the fine from the statutory filing deadline until the payment date, as per its procedure. However, the Zakat Payer argued, requesting dismissing ZATCA's appeal and upholding the primary Decision. Having carefully considered the subject matter of the dispute and examined the documents contained in the case file, the Department finds that the late payment fine is linked to the contested items. Since the Department dismissed ZATCA's appeal regarding those items, the fine is void since the principal obligation is extinguished.

In view of the foregoing, and in light of stated Grounds, the Department unanimously decided as follows:

Decision:

First: Accept the appeal in form by the Zakat Payer/ ... company, CR No. (...), TIN No. (...), and ZATCA's appeal against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh No. (IFR-2020-164), issued in case number (ZIW-6-2018), related to zakat assessment for the years 2010 to 2013 AD.

Second: On Merits:



1. Accept Zakat Payer's appeal regarding the item of (Expiration of the Statutory Period for Amending the Tax Declaration for the years 2010 and 2011 AD) and overturn the primary Decision upholding ZATCA's Decision on all items subject to the Zakat Payer's appeal related to the years 2010 and 2011 AD, in accordance with the reasons and justifications stated herein.
 2. Accept Zakat Payer's appeal regarding the item of (Travel and Hotel Expenses for the year 2012 and 2013 AD), and overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the reasons and justifications stated herein.
 3. Dismiss ZATCA's appeal regarding the item (Social Insurances for the years 2012 and 2013 AD) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the reasons and justifications stated herein.
 4. Accept Zakat Payer's appeal regarding the item of (Rents for the year 2012 and 2013 AD), and overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the reasons and justifications stated herein.
 5. Accept Zakat Payer's appeal regarding the item of (Increased Bonuses for the year 2012 and 2013 AD), and overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the reasons and justifications stated herein.
 6. Accept Zakat Payer's appeal regarding the item of (Allowances for the years 2012 and 2013 AD), and overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the reasons and justifications stated herein.
 7. Accept Zakat Payer's appeal regarding the item of (Executive Bonuses for the year 2012 and 2013 AD), and overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the reasons and justifications stated herein.
 8. Dismiss ZATCA's appeal regarding the item (Depreciation Differences for the years 2010 to 2013 AD) and uphold Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the reasons and justifications stated herein.
 9. Dismiss ZATCA's appeal regarding the item (Withholding Tax on Reinsurance Installments for the years 2010 to 2014 AD) and uphold Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the reasons and justifications stated herein.
 10. Dismiss ZATCA's appeal regarding the item (Late Payment Fine) and uphold Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the reasons and justifications stated herein.
- May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.



Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-194
Case No. Z-31118-2020

Key words:

Zakat and Tax - Accounts - Depreciation Differences - Creditors for Spare Parts and Constructions in Progress

Abstract

The Appellant (ZATCA/ Zakat Payer) requests to cancel the primary Decision No. (IZJ-2020-141) regarding zakat assessment for the years 2011 to 2013 AD. Regarding the Zakat Payer's appeal on the item of (Creditors for Spare Parts and Constructions in Progress) and (Subscription Creditors) in objection to the Primary Department affirmation of ZATCA's action to include these items in the zakat base; and regarding ZATCA's appeal on the items of (Depreciation Differences for the years 2012 and 2013 AD) and (Fixed Assets for the years 2011 to 2013 AD), it is based on acceptance of the primary department of the Zakat Payer's objection regarding this item. The Department, regarding (Creditors for Spare Parts and Constructions in Progress) item, that the Zakat Payer, in its appeal to this Department, did not demonstrate how the Decision violated the Implementing Regulations for Zakat Collection. The Zakat Payer, regarding (Subscription Creditors) item, failed to prove that the disputed amounts had not completed the full years. ZATCA, regarding (Depreciation Differences for the years 2012 and 2013 AD) item, did not clarify what the Zakat Payer should have accounted for and how it impacted its declarations. Moreover, this Department, regarding (Fixed Assets for the years 2011 to 2013 AD), dismissed ZATCA's appeal regarding depreciation differences item and consequently rejects ZATCA's appeal on the fixed assets item, as the amount for that item is tied to the deducted depreciation amount. The Department ruled to dismiss the Zakat Payer's appeal regarding (Subscription Creditors for the years 2011 and 2013 AD) and (Creditors for Spare Parts and Constructions in Progress for the years 2011 to 2013 AD) items, accept Zakat Payer's appeal for the remaining items, and dismiss ZATCA's appeal for all items.

Instruments:

- Article (3) of [the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)

Facts:

To consider the appeal presented on .././.... Corresponding to .././.... by/ ..., National ID No. (...), in his capacity as the Attorney of the Appellant Company pursuant to PoA No. (...) and the appeal filed by ZATCA on 09/04/1442 AH corresponding to 24/11/2020 AD against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah No. (IZJ-2020-141), issued in case No. (Z-190-2018), regarding the zakat assessment for the years 2011 to 2013 AD, filed by the Appellant against ZATCA. The primary Decision stated the following:

First: In from: Accept the Plaintiff's (... Co.), CR No. (...) claim in form.

Second: On Merits:



1. Accept the objection of the Plaintiff/(...Co.) and cancel the Defendant's Decision regarding the item of depreciation differences for the years 2012 and 2013 AD.
2. Confirm settlement of the dispute between the Plaintiff (... Co.) and the Defendant regarding the item of sale profits and disposal of equipment for the year 2013 AD.
3. Dismiss the objection of the Plaintiff/ (...Co.) to the item of creditors for spare parts and constructions in progress for the years 2011 to 2013 AD.
4. Dismiss the objection of the Plaintiff/(...Co.) to the item of subscription creditors for the years 2011 and 2013 AD.
5. Dismiss the objection of the Plaintiff/(...Co.) to the item of advance payments provided by customers for the years 2011 and 2013 AD.
6. Confirm settlement of the dispute between the Plaintiff and the Defendant regarding the item of board members' remuneration for the years 2012 and 2013 AD.
7. Accept the objection of the Plaintiff/(...Co.) and cancel the Defendant's Decision regarding the item of fixed assets for the years 2011 to 2013 AD.
8. Dismiss the objection of the Plaintiff/(...Co.) to the item of distributed profits for the year 2013.
9. Accept the objection of the Plaintiff/(...Co.) and cancel the Defendant's Decision to adopt the adjusted net profit for the year 2013 AD.
10. dismiss the objection of the Plaintiff/ (...Co.) to the item of withholding tax.

Since both parties to the Case dissatisfied with this Decision; they submitted a statement of appeal summarized as follows:

With regard to the Zakat Payer's appeal against the primary Decision, the Grounds for the appeal are as follows: The Zakat Payer, regarding (Creditors for Spare Parts and Constructions in Progress) item, objects to the inclusion of this item in the zakat base, claiming that its inclusion does not align with the provisions of Article (4/5b) of the Executive Regulations issued by Royal Decree No. (M/40) dated 07/07/1405 AH, as per Ministerial Decision No. (2082) dated 1/6/1438 AH. The Zakat Payer, regarding (Subscription Creditors) item, objects to the inclusion of this item in the zakat base, arguing that its inclusion contradicts Fatwa No. (24531) dated 19/8/1430 AH, which emphasizes that Zakat on debt is considered in relation to the creditors rather than the debtors. The amounts related to subscription creditors are not owned by the company but rather by the subscribers, as these are deposits available for withdrawal at any time by the shareholders and they are subject to deduction from the zakat base as they fall under the exception in Article 4 (First/11). The Zakat Payer claims, regarding (Advance Payments provided by Customers) item, claims that these amounts are classified in the financial statements under current liabilities and are related to the nature of the business. The advance payments are meant to secure the purchase and are eventually offset against revenues when customers receive their purchases. These payments are short-term and linked to each individual customer. The Zakat Payer asserts that these advances are guarantees for supplying customers with cement and do not constitute advance payments for manufacturing but rather are purchase payments that arose over a short period. Additionally, no formal agreement is in place with customers, as these transactions occur over a short period. The Zakat Payer claims, regarding (Distributed Profits) item, that profits amounting to SAR (973,275,005) were distributed, including carried forward profits of SAR (633,064,586) and SAR (340,210,419) from the year 2013. Therefore, these amounts should be excluded from the zakat base. Furthermore, the Zakat Payer argues, with regard to (Withholding Tax) item, that the actual payment for all beneficiaries (non-resident companies) was made in 2014. The company withheld tax from (...) Company, (...) Company, and (...) Company in 2014, and remitted the same to ZATCA. However, the latter included this tax in the years 2011 to 2013 AD based on the contracts rather than the actual payment. Regarding the work carried out by (...) Company, it was conducted



through its branch registered with ZATCA under TIN No. (...). The Zakat Payer requested that ZATCA verify the inclusion of the revenues from the branch in the company's total revenues. However, ZATCA failed to conduct this verification. Therefore, the Zakat Payer requests overturning the primary Decision regarding the contested items for the aforementioned Grounds.

As the Decision was not accepted by ZATCA, it filed its appeal against the contested Decision, as detailed in the following statement of appeal:

ZATCA, regarding its appeal concerning (Depreciation Differences for the years 2012 and 2013 AD), clarifies that it has no objection to applying the provisions of Article 17 of the Income Tax Law. Rather, the dispute lies in the amount of depreciation calculated by the Zakat Payer. Upon recalculating the depreciation based on Schedule (4) prepared by the Zakat Payer and comparing the same to Schedule (4) prepared by ZATCA, depreciation differences were found as detailed in the case file. The primary Decision canceled ZATCA's action, as the Zakat Payer is entitled, for zakat purposes, to deduct fixed assets owned and used in the business and is also entitled to use the depreciation method of its choice, provided that it consistently applies it in subsequent years. ZATCA, regarding (Fixed Assets for the years 2011 to 2013) item, clarifies that it deducted fixed assets from the zakat base in accordance with Article (17) of the Income Tax Law and Circulars No. (9/2574) and (9/1724). Based on the findings mentioned in item (First) above, it is evident from the Zakat Payer's declarations that it calculated depreciation based on Statement (4) rather than the financial statements. Furthermore, the Zakat Payer is obligated to follow a consistent method; it is not permissible to depreciate fixed assets according to Statement (4) while simultaneously claiming deductions based on financial statements. The primary Decision canceled ZATCA's action, relying on Paragraph (1) of Article (5) of the Implementing Regulations for Zakat Collection and Circular No. (2988/16/1436) dated 29/4/1436 AH. ZATCA, regarding (Adjusted Net Profit for 2013) item, requested calculating zakat based on the adjusted net profit, as it exceeds the zakat base. Furthermore, the Zakat Payer included the adjusted net profit in its declaration, so it is inconsistent for them to object to a procedure it initiated. The primary Decision canceled ZATCA's action, emphasizing that the zakat base is calculated using a specific method: positive base elements minus negative base elements. A fundamental aspect of this is deducting net fixed assets, regardless of their size or type, as long as they contribute to current and future production. Since the year's profits were used to finance assets, imposing a limit on this deduction lacks a legal basis. Therefore, ZATCA insists on accuracy and correctness of its procedures and requests upholding its action and dismissing Zakat Payer's appeal on the contested items for the aforementioned reasons.

On Tuesday 29/06/1443 AH corresponding to 01/02/2022 AD, the Department decided to hold a 10-day e-hearing. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal, confirming validity of the primary Decision upholding ZATCA's action on the contested items under Zakat Payer's appeal. ZATCA, regarding (Creditors for Spare Parts and Constructions in Progress) item, bases its action on Paragraph (13) of Item (First) of Article (4) of the Implementing Regulations for Zakat Collection and bases its action, concerning (Subscription Creditors) item, on Paragraph (5) of Item (First) of Article (4) of the Implementing Regulations for Zakat Collection. ZATCA's action, regarding (Advance Payments from Customers) item, is based on Paragraph (4) of Item (First) of Article (4) of the Implementing Regulations for Zakat Collection and concerning (Distributed Profits), is based on Paragraph (11) of Item (First) of Article (4) of the Implementing Regulations for Zakat Collection. ZATCA, with respect to (Withholding Tax) item, imposed the tax based on Paragraph (A) of Article (68) of the Income Tax Law and Paragraph (1) of Article (63) of the Implementing Regulations of Income Tax Law. ZATCA requests that no new documents from the Zakat Payer be



accepted if they were not previously submitted during the examination and objection stages. Additionally, ZATCA requests that no new requests from the Zakat Payer be accepted based on Article (186) of Law of Civil Procedures. Therefore, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision with respect to the contested items under Zakat Payer's appeal for the aforementioned reasons. The Zakat Payer, in its memorandum of reply, requests dismissal of the appeal and upholding the primary Decision with respect to the contested items under ZATCA's appeal.

On Sunday 21/10/1443 AH, corresponding to 22/05/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds:

Upon reviewing Case documents and statement of appeal submitted by Zakat Payer, the Department found that conditions of appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations, and Decisions. Therefore, the Appeal request was accepted in form for being submitted by a person with legal capacity and within the statutory prescribed period.

As for the merits of case, the Zakat Payer's appeal, regarding (Creditors for Spare Parts and Constructions in Progress) item, is based on disputing the Primary Decision's support for ZATCA's action in adding this item to the zakat base. The Zakat Payer claims that including this item does not comply with the established regulatory guidelines. ZATCA, on the other hand, insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. Having carefully considered the subject matter of the dispute and examined the documents contained in the case file, the Zakat Payer claimed that the primary Decision does not conform to the provisions of the Implementing Regulations for Zakat Collection. However, the Zakat Payer did not clarify in its appeal to this Department how the Decision contradicts the Implementing Regulations for Zakat Collection. It has become clear to this Department that the Primary Department reached the correct conclusion and that the reasons supporting its Decision are sufficient to uphold it. Therefore, this Department concludes to dismiss the Zakat Payer's appeal and uphold the primary Decision in this regard.

The Zakat Payer's appeal, regarding (Subscription Creditors) item, is based on disputing the Primary Decision's support for ZATCA's action in adding this item to the zakat base. The Zakat Payer claims that including this item does not comply with Fatwa No. (24531) dated 19/8/1430 AH, which stipulates that the relevant party for the zakat on debt is the creditor and not the debtor. ZATCA, on the other hand, insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. Having carefully considered the subject matter of the dispute and examined the documents contained in the case file, it is noted that obligations, regardless of their type, are added to the zakat base if a full year has passed while they remain in the Zakat Payer's liability. Since the Zakat Payer failed to provide evidence that a full year had not passed on the amounts in dispute, nor did it present proof that these amounts were deposited in a separate account that the Zakat Payer could not access, this Department concludes to dismiss the Zakat Payer's appeal and uphold the primary Decision in this regard.

The Zakat Payer's appeal, regarding (Advance Payments from Clients) item, is based on disputing the Primary Decision's support for ZATCA's action in adding this item to the zakat base. The Zakat Payer claims that these amounts are classified in the financial



statements under current liabilities and are related to the nature of their business activity. ZATCA, on the other hand, insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. Having carefully considered the subject matter of the dispute and examined the documents contained in the case file, it is evident that the dispute is primarily based on documentation. The Zakat Payer provided the account statements, which indicated that a full year had passed on the amounts of SAR (698,521) for 2011 AD, SAR (694,632) for 2012 AD, and (1,749,759) for 2013 AD. Therefore, this Department decides to accept the Zakat Payer's appeal and amend the primary Decision by adding the amounts of SAR (698,521) for 2011 AD, SAR (694,632) for 2012 AD, and (1,749,759) for 2013 AD to the zakat base, excluding the other disputed amounts.

The Zakat Payer's appeal, regarding (Distributed Profits) item, is based on the objection to the Primary Department's support for ZATCA's action in adding this item to the zakat base, claiming that the profits were distributed and should therefore be deducted. However, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. Having carefully considered the subject matter of the dispute and examined the documents contained in the case file, it is evident from the cash flow statement for the year in question that the profits were indeed distributed to shareholders. It has been established that the Zakat Payer was discharged from such funds. The Department finds no Grounds for correction or further commentary in light of ZATCA's argument regarding the Zakat Payer's ineligibility to exclude any distributions beyond the deferred profits. Since these funds were removed from the Zakat Payer's liability, zakat is not due on the disputed amounts. Therefore, this Department concludes to accept the Zakat Payer's appeal and overturn the primary Decision in this regard.

The Zakat Payer's appeal, regarding (Withholding Tax) item, is based on the objection to the Primary Department's support for ZATCA's action in subjecting the disputed amounts to tax based on the contract date rather than the actual payment date. However, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. Having carefully considered the subject matter of the dispute and examined the documents contained in the case file, it is clear that the contracts with (...) Company and (...) Company fall under the provisions of a permanent establishment as outlined in Paragraph (b) of Article (3) of the Income Tax Law, given that the nature of the Zakat Payer's business necessitates the presence of a contractor and possession of construction sites and assembly facilities. As for the withholding tax on other companies, the tax should be withheld at the time of payment to non-residents, not based on the contract date. Since ZATCA did not provide evidence to support the claim that the permanent establishment provisions do not apply to non-residents and did not prove that payments were made on the contract date, this Department concludes to accept the Zakat Payer's appeal and overturn the primary Decision in this regard.

ZATCA's appeal, regarding the item (Depreciation Differences for the years 2012 and 2013 AD), lies in ZATCA's objection to the primary Decision to accept the Zakat Payer's objection to this item. ZATCA argues that the depreciation amount calculated by the Zakat Payer differs from what is shown in Statement (4) prepared by ZATCA. However, the Zakat Payer argued, requesting dismissing ZATCA's appeal and upholding the primary Decision. Having carefully considered the subject matter of the dispute and examined the documents contained in the case file, and whereas ZATCA indicated in its appeal that the Zakat Payer's method of calculating depreciation is not in dispute, and that the reason for the discrepancy and ZATCA's amendment to the Zakat Payer's declarations is due to the issuance of primary and appealed Decisions for the years



preceding the ones in question, which the Zakat Payer did not consider when preparing Statement No. (4). ZATCA did not provide an explanation for its amendments or clarify its position before the Primary Department, nor did it attach objective reasons for its amendments to the Zakat Payer's declaration in its appeal, and given that the reference to prior primary and appealed Decisions for the years preceding the disputed years and the claim that the Zakat Payer did not consider the same lacks concrete evidence, as ZATCA did not specify what the Zakat Payer should have considered or how it would affect the declarations, this Department concludes to dismiss ZATCA's appeal and uphold the primary Decision in this regard.

ZATCA's appeal, regarding the item (Fixed Assets for the years 2011 to 2013 AD), lies in ZATCA's objection to the primary Decision to accept the Zakat Payer's objection to this item. ZATCA argues that the Zakat Payer calculated depreciation according to Statement No. (4) rather than the financial statements, despite being required to follow a consistent method. However, the Zakat Payer argued, requesting dismissing ZATCA's appeal and upholding the primary Decision. Having carefully considered the subject matter of the dispute and examined the documents contained in the case file, it is noted ZATCA indicated in its appeal that its calculation of fixed assets deducted from the tax base was based on the results of its amendments to depreciation amounts. Since this Department dismissed ZATCA's appeal concerning the depreciation differences, this logically leads to the dismissal of its appeal, as the amount of that item is linked to the amount of depreciation deducted, which is not affected by ZATCA claiming that the Zakat Payer cannot deduct fixed assets according to its financial statements, as it contradicts ZATCA's related circulars, which permit zakat payers to deduct fixed assets based on amounts shown in audited financial statements, after accounting for any unapproved depreciation differences. This renders ZATCA's claim unsupported by factual evidence. Therefore, this Department concludes to dismiss ZATCA's appeal and uphold the primary Decision in this regard.

ZATCA's appeal, regarding (Adjusted Net Profit for 2013 AD) item is based on the objection to the Primary Department acceptance of the Zakat Payer's objection regarding this item. ZATCA argues that the Zakat Payer used the adjusted net profit in its declaration, implying that its objection pertains to a procedure it had initiated itself. Zakat was calculated based on the adjusted net profit since it exceeded the zakat base. However, the Zakat Payer argued, requesting dismissing ZATCA's appeal and upholding the primary Decision. Having carefully considered the subject matter of the dispute and examined the documents contained in the case file, and considering that the standard procedure for calculating zakat base for Zakat Payer involves adding positive elements to zakat base, such as capital, equity, annual profits and other sources of funding, while deducting negative elements from zakat base, such as fixed assets, long-term investments, annual losses and carried forward losses. Since fixed assets and equivalents are considered capital assets that help in current and future production, regardless of their source of funding, the limitation of zakat base by the adjusted profit, if the base is lower than that profit, has no legitimate or legal ground. Therefore, Zakat Payer is entitled to deduct the net fixed assets and capital investments without being restricted by any specific limit. As such, this Department dismisses ZATCA's appeal and overturns the primary Decision regarding this item.

In view of the foregoing, and in light of stated Grounds, the Department unanimously decided as follows:

Decision:

First: Accept the appeal in form by the Zakat Payer/ ... company, CR No. (...), TIN No. (...), and ZATCA's appeal against the Decision of the First Department for Determination



of Income Tax Violations and Disputes in Jeddah No. (IZJ-2020-141), issued in case number (Z-190-2018), related to zakat assessment for the years 2011 to 2013 AD.

Second: On Merits:

1. Dismiss Zakat Payer's appeal regarding the item (Creditors for Spare Parts and Constructions in Progress for the years 2011 to 2013 AD) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, in accordance with the reasons and justifications stated herein.
2. Dismiss Zakat Payer's appeal regarding the item (Subscription Creditors for the years 2011 and 2013 AD) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, in accordance with the reasons and justifications stated herein.
3. Accept Zakat Payer's appeal regarding the item (Advance Payments from Clients for the years 2011 to 2013 AD) item and amend the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah by adding amounts of SAR (698,521) for 2011 AD, SAR (694,632) for 2012 AD, and SAR (1,749,759) for 2013 AD to the zakat base, excluding the other disputed amounts, in accordance with the reasons and justifications stated herein.
4. Accept Zakat Payer's appeal regarding the item (Distributed Profits for the year 2013 AD) and overturn the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, in accordance with the reasons and justifications stated herein.
5. Accept Zakat Payer's appeal regarding the item (Withholding Tax) and overturn the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, in accordance with the reasons and justifications stated herein.
6. Dismiss ZATCA's appeal regarding the item (Depreciation Differences for the years 2012 and 2013 AD) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, in accordance with the reasons and justifications stated herein.
7. Dismiss ZATCA's appeal regarding the item (Fixed Assets for the years 2011 to 2013 AD) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, in accordance with the reasons and justifications stated herein.
8. Dismiss ZATCA's appeal regarding the item (Adjusted Net Profit for the year 2013 AD) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, in accordance with the reasons and justifications stated herein.

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



Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-196
Case No. ZIW-30567-2020

Key words:

Zakat and Tax - Accounts - Import Variance - Increased Social Insurance - Carried Forward Losses

Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (IZD-2020-177) regarding the zakat assessment for the years 2010 to 2013 AD. The Zakat Payer's appeal, concerning zakat assessment for the years 2010 to 2012 AD and (Import Variance for the years 2013 AD), lies in a settlement for the difference in purchases related to spare parts and machinery it added. The Zakat Payer requests that the amount added to the adjusted profit be amended to SAR (462,393) instead of SAR (620,648). Additionally, the Zakat Payer objects to the item (Increased Social Insurance) alleging that ZATCA did not provide details of this item to enable it to file an objection. It has been established by the Department regarding zakat assessment for the years 2010 to 2012 AD that the relevant circulars include provisions for ZATCA's right to reassess within a period of five (5) years from the date the Zakat Payer submits its declarations. It was found, regarding (Import Variance for the year 2013 AD), that spare parts worth SAR (585,458) were included in the amount by which ZATCA amended the Zakat Payer's declaration. As for the item (Increased Social Insurance), the Zakat Payer is assessed based on its audited financial statements. Therefore, the Department ruled to accept the Zakat Payer's appeal for all items and dismiss the Zakat Payer's appeal concerning the late payment fine item. The late payment fine shall apply to the items for which this Department has amended the Decision of the First Department for Determination.

Instruments:

- Articles (65/A) and Paragraph (b) of Article (76) of [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)

Facts:

To consider the appeal presented on .././.... AH corresponding to .././.... AD by ..., National ID No. (...), in his capacity as the Attorney of the Appellant Company under PoA No. (...) against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam No. (IZD-2020-177), issued in case No. (ZIW-10111-2019), regarding the zakat assessment for the years 2010 to 2013 AD, filed by the Appellant against ZATCA. The primary Decision stated the following:

In from:

Accept the Plaintiff's (...) Co. case, C.R No. (...), in form.

On Merits:

1. Dismiss the Plaintiff's/ (...) company, CR No. (...), objection regarding (Import Variance) item.



2. Resolve the dispute by accepting the Defendant's requests concerning the item 'Doubtful Debts Provision', 'Bad Debts', and 'End of Service Provision' for the years 2013 AD.
3. Dismiss the Plaintiff's/ (...) company, CR No. (...), objection. regarding (Increased Social Insurance) item.
4. Dismiss the Plaintiff's/ (...) company, CR No. (...), objection regarding (Fixed Assets) and (Depreciation Differences) items.
5. Dismiss the Plaintiff's/ (...) company, CR No. (...), objection regarding (Non-Deduction of Other Expenses for 2012 AD) item.
6. Dismiss the Plaintiff's/ (...) company, CR No. (...), objection. regarding (Addition of Accounts Payable and Payables to Related Parties) item.
7. Dismiss the Plaintiff's/ (...) company, CR No. (...), objection. regarding (Difference in Carried Forward Losses) item.
8. Amend the Defendant's, ZATCA, Decision concerning the item (Withholding Tax for the years 2010 to 2012 AD).
9. Dismiss the Plaintiff's/ (...) company, CR No. (...), objection. regarding (Late Payment Fines) item.

Since Taxpayer (..... Company) dissatisfied with this Decision; it submitted a statement of appeal summarized as follows:

The Zakat Payer challenges the appealed primary Decision, claiming that, regarding (Accounts Payable and Payables to Related Parties) item , the balances have not yet completed a full year and certified statements from the chartered accountant have been submitted to this effect. Therefore, the Zakat Payer demands that these amounts not be included in the zakat base due to lack of a full year. The Zakat Payer claims, regarding (Import Variance) item, that a settlement was made regarding the difference in purchases related to spare parts and machinery, which it added, and request that the amount added to the adjusted profit be revised to SAR (462,393) instead of SAR (620,648). Regarding the items (Increased Social Insurance), (Fixed Assets and Depreciation Differences), and (Carried Forward Losses), the Zakat Payer claims that it was unable to identify the details of these items and thus requests that ZATCA provide the calculation details to take appropriate action. The Zakat Payer argues, concerning (Fines) item, that, given the existence of a genuine technical dispute, fines should only be imposed from the date when the assessment becomes conclusive and the dispute is resolved. Based on the foregoing, the Zakat Payer requests overturning the appealed primary Decision.

On Tuesday 29/06/1443 AH corresponding to 01/02/2022, the Department decided to hold a 10-day e-hearing. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal, maintaining its arguments raised before the primary department and asserting that the Zakat Payer's arguments do not introduce any new points that have not already been addressed. ZATCA, regarding (Import Variance) item, compared the declared imports with those according to customs data and found that the customs data showed a higher value. Therefore, a 10% profit margin was applied to the difference, and the profit from the import variance was added to the adjusted net profit based on ZATCA's Circular No. (9/2030) dated 15/04/1430 AH. Since the Zakat payer failed to provide supporting documents for these differences, its objection was dismissed in accordance with Paragraph (3) of Article (20) of the Implementing Regulations for Zakat Collection and Paragraph (3) of Article (57) of the Implementing Regulations of the Tax Law. ZATCA, concerning (Increased Social Insurance) item, compared the social insurance amounts recorded in the accounts with the social insurance calculated according to the Social Insurance Law and based on the data from the Social Insurance Certificate. The difference was then adjusted against the net profit, and since the Zakat Payer failed to provide supporting documents for these differences, its objection was



dismissed based on Article (5), Paragraph (1), Item (A) as well as Article (6), Paragraphs (2) and (4), and Article (20), Paragraph (3) of the Implementing Regulations for Zakat Collection, and Article (9/1/A) and Article (57), Paragraph (3) of the Implementing Regulations of the Tax Law. As for the (Fixed Assets and Depreciation Differences) item, the value of the assets and depreciation differences was determined by re-preparing the asset and depreciation statements according to Statement No. (4), pursuant to Article (17) of the Tax Law, Circular No. (9/2574) dated 14/05/1426 AH, Circular No. (9/1724) dated 24/03/1427 AH, and Article (7) of the Implementing Regulations for Zakat Collection. ZATCA, regarding (Accounts Payable and Payables to Related Parties) item, added the relevant balances to the zakat base after comparing the opening and closing balances, whichever is less as it completed a full year. The Zakat Payer failed to provide supporting documents for the account movements, and ZATCA based its action on Fatwa No. (22665) of 1424 AH and Fatwa No. (2/3077) of 1426 AH, as well as Article (4), Item (First) and Paragraph (5) of the Implementing Regulations for Zakat Collection. ZATCA, in relation to (Carried Forward Losses Differences) item, handled the carried forward losses based on Circular No. (1/92) of 1418 AH, reaffirmed by Article (/4 Second), Paragraph (9) of the Implementing Regulations for Zakat Collection and Article (21) of the Tax Law. Regarding the (Fines) item, ZATCA based its actions on Article (77), Paragraph (A) of the Tax Law and Article (68), Paragraph (1/B) of its Implementing Regulations. ZATCA requests the Department not accept any new documents from the Zakat Payer that were not previously submitted to it during the examination and objection stages. It also requested that the Department reject any requests from the Zakat Payer based on Article (186) of Law of Civil Procedures. Therefore, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision for the aforementioned reasons.

On Tuesday, 23/10/1443 AH corresponding to 24/05/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds:

Having taken cognizance of Case documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been met in form in accordance with conditions stipulated in relevant laws, regulations, and Decisions. Therefore, the appeal is accepted in form for being filed by a party having capacity and within the prescribed statutory period.

As for the merits of case, the Department, having carefully considered the subject matter of the dispute and examined the documents contained in the case file, regarding the Zakat Payer's appeal for the years 2010 to 2012 AD, found that the zakat and tax declarations for the years 2010 to 2012 AD were governed by the relevant circulars concerning ZATCA's right to conduct zakat assessments, as well as the provisions stipulated by the Tax Law and its Implementing Regulations, which regulate the process and procedure for amending the assessment. Article (65/A) clearly states that ZATCA's right to amend the assessment must occur within five years from the final date set for submission thereof. Since the stability of the legal and financial positions is an essential goal confirmed by the Law, as it stipulates that ZATCA may not exceed the five-year period for Reassessment except in the case of a tax evasion, provided that it does not exceed ten (10) years to exercise such right. The relevant circulars stipulate that the zakat assessments grant ZATCA the right to reassess within five years from the date the Zakat Payer submitted its declarations and since Reassessment was made in violation of the Law as stated above,



with which the goal of stabilizing the financial and legal positions of Zakat Payers will not be achieved. Therefore, the Department satisfies to decide that ZATCA has no right to make the Zakat Assessment for 2010 to 2012 AD, to accept Zakat Payer's appeal, and reverse the primary Decision regarding the years 2010 to 2012 AD for this item.

The Zakat Payer's appeal concerning the (Import Variance for 2013 AD) item, is based on the claim that there was a settlement regarding the difference in the purchase of spare parts and machinery it added. The Zakat Payer requests that the amount added to the adjusted profit be amended to SAR (462,393) instead of SAR (620,648). In response, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. Having carefully considered the subject matter of the dispute and examined the documents contained in the case file, the Department finds that dispute is document-based and after reviewing the documents submitted by the Zakat Payer, including the statement issued by customs, it was revealed that spare parts amounting to SAR (585,458) were included in the amount by which ZATCA amended the Zakat Payer's declaration. Therefore, this Department decides to accept the Zakat Payer's appeal and amend the primary Decision by adding the profit difference of SAR (4,623,925) at a rate of 10%, amounting to SAR (462,393) to the Zakat Payer's zakat and tax base.

The Zakat Payer's appeal, regarding (Increased Social Insurance) item, is based on that ZATCA failed to provide details of this item, preventing it from submitting a proper objection. However, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. Having carefully considered the subject matter of the dispute and examined the documents contained in the case file, it became evident that the Zakat Payer claimed to be unable to determine the details of the calculation of that difference in ZATCA's assessment. Upon examining the facts of the primary Decision, it was found that ZATCA based its action on a comparison between the social insurance recorded in the accounts with the insurance calculated according to the Social Insurance Law. However, ZATCA did not clarify how it calculated these differences in accordance with accounting principles. Social insurance expenses are determined on an accrual basis, which requires linking this expense to employee entitlements during the period, whether it was paid or remains as a liability for the Zakat Payer. As the Zakat Payer is assessed based on its audited financial statements, this Department decides to accept the Zakat Payer's appeal and overturn the primary Decision in this regard.

The Zakat Payer's appeal, regarding (Fixed Assets and Depreciation Differences for 2013 AD) item, is based on that ZATCA failed to provide details of this item, preventing it from submitting a proper objection. However, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. Having carefully considered the subject matter of the dispute and examined the documents contained in the case file, concerning the fixed assets deducted from the base, the dispute centers around ZATCA's deduction of fixed assets according to the Income Tax Law. Meanwhile, the Zakat Payer requests that the fixed assets be deducted for zakat purposes based on its financial statements. Given that ZATCA's action is based on an internal circular, and such circulars have an effect only in terms of the procedural measures taken by ZATCA in carrying out assessments on zakat payers and do not extend to substantive provisions or affect the zakat payers' zakat base, it is determined that the Zakat Payer is entitled to deduct fixed assets from its zakat base, considering them as capital assets that are not subject to zakat according to the balance shown in the financial position statement. The Zakat Payer, regarding depreciation differences, indicated in the primary Decision that it was unable to determine the details of how the depreciation differences were calculated in the assessment. On the other hand, ZATCA responded by stating that



it applied the provisions of Article (17) of the Income Tax Law without specifying how this application was carried out, which would allow for a substantiated objection against this action. Since ZATCA did not clarify the method used to determine the depreciation differences for the Zakat Payer, this Department concludes that there is no basis to depart from what the Zakat Payer presented in its declarations regarding the calculation of depreciation differences for the year in question, as this represents the standard calculation in the absence of credible evidence and proper justification to deviate from what was reported in the Zakat Payer's zakat and tax declaration. Therefore, this Department decides to accept the Zakat Payer's appeal concerning the calculation of fixed assets and depreciation differences for the year in question based on its declaration and overturn the primary Decision in this regard.

The Zakat Payer's appeal, regarding (Accounts Payable and Payables to Related Parties for 2013 AD) item, is based on the objection to the inclusion of this item in the zakat base, claiming that the one full year period has not elapsed for these balances. However, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. Having carefully considered the subject matter of the dispute and examined the documents contained in the case file, whereas the Zakat Payer provided an analysis demonstrating that the balances in question had not completed the full year period, and whereas upon review of the audited financial statements, it is evident that the disputed amount is classified as a current liability, which by its nature is a short-term obligation due within one year, and since ZATCA failed to provide evidence that could justify deviating from the Zakat Payer's assertions, the Department concludes to accept the Zakat Payer's appeal and overturn the primary Decision in this regard.

The Zakat Payer's appeal, regarding (Carried Forward Losses) item, is based on that ZATCA failed to provide details of this item, preventing it from submitting a proper objection. However, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. Having carefully considered the subject matter of the dispute and examined the documents contained in the case file, it became evident that the Zakat Payer claimed to be unable to determine the details of the calculation of carried forward losses in ZATCA's assessment. Whereas it appears from ZATCA's response to the primary Decision that ZATCA applied the relevant circulars and regulations without specifying the manner in which such application was made, in contradiction to the Zakat Payer's declarations. Since ZATCA failed to provide a detailed explanation of its calculation method, preventing the Zakat Payer from presenting a substantiated objection, this Department concludes to accept the Zakat Payer's appeal and overturn the primary Decision in this regard.

The Zakat Payer's appeal, regarding (Fines) item, is based on the objection to the imposition of fines from the date of the assessment, arguing that the fine should be imposed from the date of the final judgment resolving the dispute due to a technical dispute on the relevant items. In response, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. Having carefully considered the subject matter of the dispute and examined the documents contained in the case file, and since the fine, according to this Department's previous rulings in this case, is related to the Import Variance item. This Department determined that the undisclosed difference in the Zakat Payer's declaration amounts to SAR (4,623,925) with a 10% profit added to the base amounting to SAR (462,393). Since the Zakat Payer was required to pay the tax on this amount when submitting its declaration within the statutory period, the Department concludes that a late payment fine is applicable from the date of the declaration submission within the statutory period until



the date of payment, in accordance with paragraph (B) of Article (76) of the Income Tax Law.

Based on the foregoing and considering the aforementioned reasons, the Department unanimously decided as follows:

Decision:

First: Accept the appeal in form by the Zakat Payer/ (...) Co., CR No. (...), TIN No. (...), against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam No. (IZD-2020-177), issued in case number (ZIW-10111-2019), related to zakat assessment for the years 2010 to 2013 AD.

Second: On Merits:

1. Accept the appeal filed by Zakat Payer regarding the contested items for the years 2010 to 2012 AD and overturn the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds mentioned herein.

2. Accept the appeal filed by Zakat Payer regarding (Import Variance for 2013 AD) item and amend the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam by adding the profit difference amounting to SAR (4,623,925) at a rate of 10%, totaling SAR (462,393) to the Zakat Payer's zakat and tax base, in accordance with the reasons and justifications stated herein.

3. Accept the appeal filed by Zakat Payer regarding the item (Increased Social Insurance) and overturn the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds mentioned herein.

4. Accept the appeal filed by Zakat Payer regarding the item (Fixed Assets and Depreciation Differences for the year 2013 AD) and overturn the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds mentioned herein.

5. Accept the appeal filed by Zakat Payer regarding the item (Accounts Payable and Payables to Related Parties for the year 2013 AD) and overturn the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds mentioned herein.

6. Accept the appeal filed by Zakat Payer regarding the item (Carried Forward Losses) and overturn the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds mentioned herein.

7. As for item (late payment fine):

A. Accept the appeal filed by Zakat Payer and annul the late payment fine imposed on the items that this Department overturned the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds mentioned herein.

B. Dismiss the appeal filed by Zakat Payer and impose the late payment fine on the items that this Department decided to amend the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, effective from the date the declaration was submitted within the statutory period until the date of payment, in accordance with the Grounds mentioned herein.

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



The Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-235

Case No. ZJ-2020-26185

Key words:

Zakat and Tax - Accounts - Depreciation Differences and Other Fixed Asset Amendments - Import Variances - Donations - Utilized Provisions - Customs Duties

Abstract

The Appellant (ZATCA/ Zakat Payer) challenges the primary Decision No. (121-2020-00) concerning the zakat and tax assessment for the years 2006 to 2012 AD. The Zakat Payer's appeal, regarding the tax-related items of the assessment, is based on the request to be included in the exemption initiative to settle the principal tax and waive the claim, while ZATCA's appeal, regarding zakat-related items, including (Depreciation Differences and Other Fixed Asset Amendments for 2011 and 2012 AD) and (Import Variances for the years 2011 and 2012 AD), challenges the primary Decision to accept the Zakat Payer's objection to such items. This Department found that ZATCA's assessment was made after the statutory period within which ZATCA was entitled to make assessments on zakat payers and also confirmed, regarding the Zakat Payer's appeal on the tax-related items of the assessment, that ZATCA was not entitled to deprive the Zakat Payer of benefiting from the initiative due to the incorrect calculation of invoices. Moreover, the Department found, regarding ZATCA's appeal concerning (Depreciation Differences and Other Fixed Asset Amendments for 2011 and 2012 AD) item, that ZATCA had made an error in application, resulting in classifying the equipment in the fifth group instead of the third group, contrary to law provisions. The item (Import Variances for the years 2011 and 2012 AD) also exhibits a contradiction between the reasons and the ruling in the Decision, rendering it as a defective Decision. Therefore, the Department ruled to accept the Zakat Payer's appeal on all items, overturn the primary Decision, and dismiss ZATCA's appeal on all items.

Instruments:

- Article (23) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- Article (17) of [the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - Paragraph (4) of Article (9) of [the Implementing Regulations of Income Tax Law, issued by Minister of Finance Decision No. \(1535\) dated 11/06/1425 AH](#)

Facts:

To consider the appeal presented on .././... AH corresponding to .././... by/ (...), ID No. (.....) in his capacity as the Attorney of the Appellant Company pursuant to PoA No. (...) and Appeal filed on .././... AH corresponding to .././... AD by ZATCA against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam No. (121-2020-00), issued in case No. (ZI-10-2018), regarding the



zakat and tax assessment for the years 2006 and 2012 AD, filed by the Appellant against ZATCA. The primary Decision stated the following:

In from: Accept Plaintiff's case in form.

On Merits:

- Accept Plaintiff's objection regarding the item "Depreciation Differences and Other Fixed Asset Amendments for the years 2006 to 2012 AD."
- Accept Plaintiff's objection regarding the item "Estimated Profits on Imports for the years 2006 to 2012 AD."
- Dismiss Plaintiff's objection regarding the item "Customs Duties for the years 2006 to 2011 AD."
- Accept Plaintiff's objection regarding the item "Donations for the years 2006, 2009, 2010, and 2012 AD."
- Accept Plaintiff's objection regarding the item "Repair and Maintenance Expenses for the year 2006 AD."
- Accept Plaintiff's objection regarding the item "Ownership Share Percentages for the year 2009 AD."
- Accept Plaintiff's objection regarding the item "Utilized Provisions for the years 2006 to 2012 AD."
- Dismiss Plaintiff's objection regarding the item "Balances, Credit Accounts, Withholdings, Amounts Payable, and Advance Payments for the years 2006 to 2008 AD."
- Accept Plaintiff's objection regarding the item "Fixed Assets for the years 2006 to 2008 AD."
- Confirm settlement of the dispute with regard to Item (Retained Earnings for the years 2007 and 2008 AD).
- Accept Plaintiff's objection regarding the item "Withholding Tax on Technical Services"
- Dismiss Plaintiff's objection regarding the item "Deduction of Withholding Tax on Technical Services"
- Dismiss Plaintiff's objection regarding the item "Withholding Tax on Other Payments for the years 2009 and 2010 AD"
- Dismiss Plaintiff's objection regarding the item "Withholding Tax on the Transfer of Retained Earnings to Capital"
- Accept Plaintiff's objection regarding the item "Withholding Tax on Capital Gains for the years 2009 AD "
- Accept Plaintiff's objection regarding the item "Late Payment Fine for the years 2006 to 2012 AD."

Since both parties to the Case dissatisfied with this Decision; they submitted a statement of appeal summarized as follows:

With regard to the Zakat Payer's appeal against the primary Decision, the Grounds for the appeal are as follows: The Zakat Payer, regarding (Customs Duties for the years 2006 to 2011 AD) item, claims that it provided supporting documents and that the company, as a construction contractor, is obligated to facilitate customs clearance for materials and equipment purchased by clients from Saudi Customs to be delivered to construction sites and claims that it incurred all costs related to customs clearance, including customs duties. These materials and equipment were purchased directly by the company's clients from external suppliers and were cleared through Saudi Customs using the clients' commercial registration numbers. Consequently, the value of the imported materials and the customs duties paid do not appear under the commercial registration number of (... Co.) in the customs records. The Zakat Payer, regarding (Balances, Credit Accounts, Withholdings, Amounts Payable, and Advance Payments for the years 2006 to 2008 AD) item, claims that it provided the analytical data in Arabic and further asserts that most of the opening balances of liabilities were settled by the company during the year and that



these balances represent loans which should not be included in the zakat base, regardless of whether they remained unpaid during the year. Regarding the item "Imposition of Withholding Tax on Technical Service Fees," the Zakat Payer claims that the tax was imposed on the basis that the fees paid to non-affiliated entities were considered payments to affiliated entities. The Zakat Payer, regarding (Withholding Tax Paid on Technical Services) item, objects to the failure to deduct the tax paid on technical services provided by (-...-) South Korea in the assessment, citing it as a (material error) and claims, regarding (Imposition of Withholding Tax on Payments Made to Non-Resident Entities) item, claims that the tax was imposed because it was reported under the category of Other Payments. Regarding the item (Imposition of Withholding Tax on the Transfer of Retained Earnings) item, the Zakat Payer claims that no amount was paid to the non-resident partner for this portion of retained earnings, and therefore, these amounts should not be subject to tax. The Zakat Payer, regarding (Late Payment Fine) item, claims that the late payment fine should be calculated from the date the final Decision of the First Department for Determination of Income Tax Violations and Disputes, rather than from the date of filing the declarations. Therefore, the Zakat Payer requests overturning the primary Decision on the contested items based on the aforementioned Grounds.

As the Decision was not accepted by ZATCA, it filed its appeal against the contested Decision, as detailed in the following statement of appeal:

ZATCA, regarding the items (Depreciation Differences and Other Fixed Asset Amendments for the years 2006 to 2012 AD), (Repair and Maintenance Expenses for 2006 AD), and (Fixed Assets for the years 2006 to 2008 and 2014 AD), clarifies that the primary Decision erred in upholding the Zakat Payer's position for the above items. The company in question is mixed, so the depreciation rates were recalculated and the depreciation schedule (Statement No. 4) was amended according to Article (17) of the Income Tax Law, Article (9), Paragraph (4) of the Implementing Regulations of Income Tax Law and ZATCA's Circulars No. (1724/9) dated 24/3/1427 AH and No. (4742/9) dated 4/9/1428 AH, which outline how to apply Article (17) of the Income Tax Law. ZATCA also made amendments based on Article (4), Item (Second), Paragraph (1) of the Implementing Regulations for Zakat Collection, which include deducting the company's owned assets, Article (18), Paragraphs (b) and (c) of the Income Tax Law, and in pursuance of provisions of Article (20), Paragraph (3) of the Implementing Regulations for Zakat Collection. It was also found that repair and maintenance expenses exceeded the 4% limit, and the Zakat Payer included this excess amount in Statement No. (4) for fixed assets and their depreciation but did not deduct it from net profit. Therefore, ZATCA amended the annual result by the difference, in accordance with Article (18), Paragraph (b) of the Income Tax Law. Regarding the item (Estimated Profits on Import Discrepancies for the years 2006 to 2012 AD), the Decision's reasoning stated: "Based on the above, the Department sees fit to amend the Defendant's Decision according to the Defendant's memorandum of reply No. (...) dated 22/5/1439 AH, as detailed regarding the item Estimated Profits on Imports for the years 2006 to 2012 AD. However, the operative part of the Decision stated: "Accept Plaintiff's objection regarding the item (Estimated Profits on Imports for the years 2006 to 2012 AD). Accordingly, given that reasoning of the Decision differs from its operative part, and considering that the referenced letter indicates that the net profit from import purchases to be amended is SAR (318,253,806), while the Zakat Payer requested, in its objection, the complete cancellation of this item. Therefore, ZATCA maintains its position as stated in the original memorandum submitted to the competent committee, asserting that the net profit from import purchases to be adjusted is SAR (318,253,806), unless the appealed Decision rules otherwise. ZATCA also reserves the right to provide additional reasons if the appealed Decision is not favorable to it. The Zakat Payer, regarding (Donations for the years 2006, 2010, and 2012 AD) item, failed to submit all required



documentation during both the examination and objection phases. Consequently, the presentation of these documents now, after failing to do so when requested by ZATCA, constitutes an infringement on ZATCA's rights and a violation of the fundamental principle of administrative law, which is "the mandatory objection of the administrative body". Additionally, the Zakat Payer's failure to provide these documents compelled ZATCA to base its Decision on the available information and documentation, rendering its Decision valid and compliant with law. The Zakat Payer's failure to submit these documents constitutes a waiver, and it is the waiving party that bears the loss." ZATCA, in relation to (Ownership Share Percentages for the year 2009 AD) item, clarifies that the exit transaction was conducted under an exit agreement dated 10/3/2009 AD, wherein the Saudi partner sold his 25% share in (...) Saudi Limited Company to (...) Company (which owns 75% of the company's capital shares under dispute) as follows: 20% of the 25% to (...) Company and (5%) to (...) Company. These shares were transferred to the two partners along with their rights and obligations for a consideration of SAR (1,000,000). The contract was notarized on 10/06/1430 AH corresponding to 03/06/2009. Based on this contract, the share of (...) Company increased to 95%, while it was reduced to only (5%) for (...) Company. Consequently, the legal entity of the Zakat Payer became a wholly-owned foreign company as of that date. Subsequently, during 2009, the two partners withdrew retained earnings amounting to SAR (150,000,000) from a total of SAR (159,729,275) as reflected in the 2008 financial statements. The share of these earnings attributable to the Saudi partner amounted to SAR (39,932,319), which was entirely transferred to the foreign partners. Similarly, the profits for 2009 AD, of which the Saudi partner was previously entitled to 25% prior to the sale and exit, were also transferred to the foreign partners. In light of the above and according to the financial statements for the year 2009 AD, where the net profit for the entire year was realized by the foreign partners and no evidence was provided that the Saudi partner received their share of the profits for this period, and considering that the exit contract stipulated that the Saudi partner's share, including its rights and obligations, would transfer to the buyer. Since profits from the period before the sale are among the rights of the sold share, the foreign partner gained the right to withdraw and distribute those profits. Therefore, these profits for that period are considered gains realized by the buyer, which were not subject to tax after the buyer acquired the share at less than its fair value according to the financial statements. Furthermore, it should be noted that there is no double taxation between income tax and zakat, confirming the correctness and validity of ZATCA's procedure in subjecting 100% of the tax base to taxation, regardless of changes in ownership. Therefore, ZATCA requests cancellation of the Department's Decision in this matter. ZATCA, regarding (Utilized Provisions for the years 2006 to 2012 AD) item, clarifies that provisions are not considered deductible expenses according to Article (6), Paragraph (6) of the Implementing Regulations for Zakat Collection issued in 1438 AH. The opening balance of the provisions was added to the tax base after excluding the utilized amount, based on Article (4), Item (First), Paragraph (9) of the Implementing Regulations for Zakat Collection. ZATCA also relied on Article (15) of the Income Tax Law for including the provision components in the adjusted net profit. Consequently, ZATCA's handling of provisions was correct and aligned with the company's submitted declarations. The impact of the zakat treatment of provisions for the tax partner was removed when the utilized amount was higher than the opening balance, and then the foreign partner's share was amended by adding the component and deducting the utilized amount. The zakat treatment of provisions does not apply to the Zakat Payer. ZATCA, regarding (Withholding Tax on Proceeds for the years 2009 AD) item, clarifies that the Primary Department based its reasoning on the fact that the circular in question was issued after the payment was made and relied on the legal principle of (Non-Retroactivity of Laws)



and further clarifies that this circular is not a law; it neither creates, establishes, legislates, nor amends statutory provisions to invoke its validity or lack thereof. Rather, it is a procedural circular that clarifies the mechanism for benefiting from and applying double taxation avoidance agreements concluded between the Kingdom and other countries. Apart from this circular and the time frame of its applicability, in order for a resident of the contracting state to benefit from the advantages of the double taxation avoidance agreements, the resident must provide a certificate issued by the tax authority in the country of residence, which must confirm that the recipient of the paid amount is a resident of that country, in accordance with Article (4) of the agreement, that the amount has been subjected to tax in that country, and that the recipient is the beneficial owner and final beneficiary of the amounts paid in exchange for these proceeds. Moreover, the Zakat Payer failed to present such a certificate, and the Department that delivered the Decision did not request it. Instead, it merely noted that the circular was issued after the relevant assessment year without considering the content of the circular itself. ZATCA calls for the Zakat Payer to submit these documents in order to apply the benefits outlined in the double taxation avoidance agreement. In the absence of these documents, ZATCA requests cancellation of the appealed Decision regarding this matter. ZATCA, regarding (Withholding Tax on Capital Gains) item, clarifies that no withholding tax was imposed on the capital gains realized during 2009, nor was such a tax imposed on the Saudi partner. However, an income tax amounting to SAR (8,086,464) was imposed on the capital gains earned by the foreign partner, totaling SAR (40,432,320), as a result of purchasing the Saudi partner's share at below its market value. ZATCA, regarding (Late Payment Fine) item, imposed late payment fines on unpaid tax differences on income tax within the statutory period, in accordance with Article (77), Paragraph (A) of the Income Tax Law, as well as Article (68), Paragraph (1/B, E) of the Implementing Regulations of Income Tax Law. Therefore, imposition of the fine is obligatory for the appealed items. Accordingly, ZATCA insists on accuracy and correctness of its procedures and requests upholding its procedure and overturning the primary Decision with respect to the contested items under ZATCA's appeal for the aforementioned reasons.

On Tuesday 16/01/1443 AH corresponding to 24/08/2021, the Department decided to hold a 10-day e-hearing. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal. The answer is summed up in that ZATCA reiterates its statement of appeal, affirming the validity of its actions based on the legal provisions. ZATCA also noted that the Zakat Payer's arguments were not different from those previously presented and responded to at the time. ZATCA reaffirmed its position according to the Reply submitted to the Primary Department and emphasized that the primary Decision aligns with established judicial precedents and principles. Additionally, ZATCA clarified that its Decision was consistent with the Implementing Regulations for Zakat Collection, the Income Tax Law, and its Implementing Regulations. Therefore, ZATCA requests dismissal of the Zakat Payer's appeal and upholding the primary Decision with respect to the contested items under Zakat Payer's appeal for the aforementioned reasons. The Zakat Payer submitted a Reply, requesting the issuance of a Decision allowing the company to benefit from the exemption initiative issued by Ministerial Decision No. (622) of 1442 AH based on the full payment of the principal tax, waiver of the claim, resolution of the dispute, and fulfillment of all conditions for the Zakat Payer to be included in the exemption initiative.

On Tuesday, 21/02/1443 AH, corresponding to 28/09/2021 AD, the Department, upon reviewing the Zakat Payer's pledge before ZATCA to waive the tax-related portion of its objection, requested a clear statement from the Zakat Payer confirming its waiver of the tax-related portion of the objection submitted before it within ten (10) days of date. Subsequently, a collection of documents was submitted by the Zakat Payer.



On Sunday 03/08/1443 AH corresponding to 06/03/2022 AD, the hearing was held via video conferencing in accordance with remote litigation procedures, based on item (2) of Article (15) of Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH to consider the appeal presented by ZATCA and ... Company, where the Representative (...) of the Plaintiff appeared holder of National ID No. (...), appeared pursuant to POA No. (...), issued by ZATCA Vice Governor for Legal Affairs, (...) Dated/... AH, where the Representative (...) of the Defendant appeared holder of National ID No. (...), appeared pursuant to PoA No. (...). When the Representative of ZATCA was asked regarding their appeal against the Zakat Payer, they responded by reaffirming the points made in their statement of appeal. As for the Zakat Payer's waiver request, the Representative noted that the request was submitted after ZATCA's appeal against the primary Decision. The exemption initiative pertains to the Plaintiff, and in this case, ZATCA is the Plaintiff, therefore, acceptance of the Zakat Payer's waiver request is not conceivable. When the Zakat Payer's Representative was asked for a response, they reiterated their previous statements before this Department and emphasized their request to benefit from the exemption initiative provided by ZATCA. The Representative also confirmed that the request was submitted within the prescribed period for the exemption initiative and that the payment was made by the Zakat Payer on 31/12/2020 AD. The Department asked the Zakat Payer regarding the amount of tax paid to ZATCA under the exemption initiative, and whether it was based on ZATCA's assessment or the invoices issued by ZATCA following the primary Decision, the Zakat Payer responded that the payment was made according to the invoices issued to it after submitting the request for the initiative. The amount was calculated in accordance with the primary Decision and the calculation was made by ZATCA, not the Zakat Payer, who paid the invoices as they were issued. The Department then asked the Zakat Payer if it had received approval from ZATCA to participate in the initiative before being informed that its request was rejected, the Zakat Payer replied that, after submitting the request for fine exemption and agreeing to pay the amounts due, ZATCA issued invoices, which were paid accordingly. However, ZATCA informed the Zakat Payer several weeks later that of its rejection to participate in the initiative. Accordingly, the Department decided to postpone the ruling on the case for further review and consideration.

On Sunday, 02/09/1443 AH, corresponding to 03/04/2022 AD, after reviewing the case file, the Department requested ZATCA to provide details on the total amount of the invoices issued to and paid by the Zakat Payer. The Department also inquired whether this total represented the amounts assessed by ZATCA, which were objected to by the Zakat Payer, or if it represented the amounts ruled by the Primary Department. If the invoices represent the amounts ruled by the Primary Department, this Department requested ZATCA to provide information on the difference between the total amounts paid by the Zakat Payer and the amount assessed by ZATCA that the Zakat Payer objected to. Additionally, this Department requested ZATCA to provide it with the ministerial Decision containing the exemption initiative and the conditions for benefiting from this initiative, to be submitted within seven (7) days from that date. Accordingly, the Department will continue to review the case in light of the information provided.

On Wednesday, 12/09/1443 AH, corresponding to 13/04/2022 AD, after reviewing the case file, the Department noted that ZATCA had provided a schedule of the amounts representing the difference between the total amounts paid by the Zakat Payer and the amount assessed by ZATCA that the Zakat Payer objected to. However, ZATCA's response did not address the department's inquiry. As a result, this Department requested for the second time that ZATCA provide a detailed statement clarifying the total amounts of the invoices issued to and paid by the Zakat Payer, specifying whether these amounts represent those assessed by ZATCA or the amounts ruled by the Primary Department.



ZATCA was requested to respond to this inquiry with a precise memorandum within seven (7) days as of date. Subsequently, a collection of documents was submitted by ZATCA.

On Sunday, 23/09/1443 AH, corresponding to 24/04/2022 AD, after reviewing the case file and noting that ZATCA requested a period to convene meeting with the Zakat Payer regarding this appeal, this Department decided to grant ZATCA a period of forty (40) days of date. Consequently, the Department postponed the ruling on this case.

On Sunday, 20/11/1443 AH, corresponding to 19/06/2022 AD, after reviewing the Reply received via email and available on the portal on 06/11/1443 AH, corresponding to 05/06/2022 AD, this Department requested a response, which was required to be submitted within seven (7) days of date, from the Zakat Payer regarding ZATCA's assertion that the Zakat Payer failed to meet the initiative requirements. Subsequently, a collection of documents was submitted by the Zakat Payer.

The Department, after reviewing the appeal memoranda and the responses, and after examining the documents and papers contained in the case file, decided that the case was ready for determination and the issuance of a ruling on its merits on Thursday 01/1/1443 AH corresponding to 30/06/2022 AD. Accordingly, the Department decided to close the pleadings and reserve the case for a final Decision.

Grounds:

Upon reviewing Case documents and statement of appeal submitted by Zakat Payer, the Department found that conditions of appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations, and Decisions. Therefore, the Appeal request was accepted in form for being submitted by a person with legal capacity and within the statutory prescribed period.

As for the merits of case, after reviewing the case file and its contents, the Department established that ZATCA's assessment of the Zakat Payer for the years 2006 to 2010 AD was made after the statutory period during which ZATCA could assess zakat payers had elapsed. The tax and zakat declarations for the years 2006 to 2010 AD were governed by the provisions of the Income Tax Law and the Implementing Regulations for Zakat Collection at that time, which included provisions governing the process and procedures of assessment, and given that these provisions explicitly stated that ZATCA's right to assess is limited to five (5) years from the deadline for filing tax declaration, and since the matter is as stated, the Zakat Payer's declaration becomes final after the five-year period from the deadline for its submission, unless ZATCA exercises its right to make amendments during that period or proves the existence of intent of tax evasion by submitting an incomplete declaration within ten (10) years from the final date set for submission of declaration; and since the stability of the legal and financial positions is an essential goal confirmed by the Law, as it stipulates that ZATCA may not exceed the five-year period for assessment except in the case of a tax evasion, provided that it does not exceed ten (10) years to exercise such right; and since assessment was made in violation of the Law as stated above, with which the goal of stabilizing the financial and legal positions of zakat Payers will not be achieved; Therefore, the Department satisfies to decide that ZATCA has no right to make the Zakat Assessment on years in question, to cancel ZATCA's assessment of the Zakat Payer for the years 2006 to 2010 AD, with the exception of the assessment related to withholding tax items, and to overturn the primary Decision regarding this matter.

The Zakat Payer's appeal, regarding the tax-related items of the assessment, is based on the request to be included in the exemption initiative for the payment of the principal tax amount and the waiver of the claim. Meanwhile, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. The Department, after reviewing the case file and its documents,



found that the Zakat Payer expressed a desire to participate in the initiative announced by ZATCA during the specified period according to its conditions, following the issuance of the primary Decision on the Zakat Payer's objection. The Department also noted from the submitted documents that the Zakat Payer communicated with the relationship manager at ZATCA, explicitly requesting to benefit from the initiative and seeking the necessary invoices to enable it to pay the due amounts in order to meet the initiative's requirements. It was determined that the invoices issued by the relationship manager at ZATCA were calculated based on the amounts ruled by the primary Decision, rather than being calculated based on the assessment issued by ZATCA, as stipulated in the initiative's conditions. Having reviewed the submitted documents and the circumstances surrounding the correspondence and documents presented by both parties to the Case, the Department clearly observed the Zakat Payer's desire to benefit from the initiative. However, the failure to pay the full amount according to the conditions set forth therein was not due to any negligence or error on the Zakat Payer's part. Rather, the inaccuracies in calculating the amounts that the Zakat Payer was required to pay in order to benefit from the initiative stemmed from the invoices issued by ZATCA, which the Zakat Payer paid within the specified timeframe of the initiative. Given the circumstances, and in light of the established principles of administrative judiciary that hold the administration responsible for errors made by its employees, thereby relieving the relevant individuals from bearing the consequences of such errors or shortcomings. Therefore, this Department concludes that ZATCA is not justified in denying the Zakat Payer the opportunity to benefit from the initiative due to incorrect invoicing. Thus, the Department affirms the validity of the Zakat Payer's participation in the exemption initiative for the years 2011 and 2012 AD concerning income tax, as well as for all disputed years regarding withholding tax. This necessitates that the Zakat Payer pay the difference between what was paid according to the invoices issued by ZATCA based on the primary Decision and the original amount initially assessed by ZATCA. Consequently, the Department decides to cancel the primary Decision regarding the tax-related aspects of ZATCA's assessment, to dismiss the Zakat Payer's appeal concerning the tax-related portion of the primary Decision, and to dismiss ZATCA's appeal regarding the tax-related aspects of the primary Decision.

ZATCA's appeal, regarding the zakat aspect of (Depreciation Differences and Other Fixed Asset Amendments for the years 2011 and 2012 AD) item, lies its objection to the Primary Department acceptance of the Zakat Payer's objection regarding this item. ZATCA claims that the Zakat Payer is classified as a mixed company, necessitating recalculation of depreciation rates and amendment of the depreciation schedule. Having carefully considered the subject matter of the dispute and reviewed the Zakat Payer's financial statements, as well as the notes related to the net book value of fixed assets, it became evident that office equipment was separated and clarified in an independent line item from other assets. Since office equipment falls under the category of machinery, equipment, devices, and software (computer programs), including passenger and cargo vehicles, which the law stipulates are to be depreciated at a rate of 25%, it is clear that ZATCA's action in classifying such equipment under the fifth group, and the resulting impact on repair and maintenance expenses as well as the net value of fixed assets, is inconsistent with the explicit provisions of law. ZATCA's appeal argument in its appeal that the Zakat Payer is a mixed company, and that it recalculated the depreciation rates and amended the depreciation schedule in accordance with the provisions of Article (17) of the Income Tax Law and Article (9), Paragraph (4) of the Implementing Regulations of the Income Tax Law, based on ZATCA's Circulars No. (1724/9) dated 24/3/1427 AH and No. (4742/9) dated 4/9/1428 AH, which explain the application of Article (17) of the Income Tax Law. Given that the Zakat Payer's objection is not regarding the application of the



law or the relevant instructions, but rather regarding ZATCA's fault in application, which resulted in the classification of the equipment under the fifth group instead of the third group, contrary to the provisions of the law. Therefore, the Department concludes to dismiss ZATCA's appeal and uphold the primary Decision regarding this matter.

ZATCA's appeal, regarding the zakat aspect of (Import Variances for the years 2011 and 2012 AD) item, lies in its objection to the primary Decision on this item, claiming that the reasoning and Grounds of the Decision differ from its operative wording. Having carefully considered the subject matter of the dispute and examined the primary Decision, the Department found that the reasons upon which the Decision was based do not align with the result reached in its operative wording. The reasoning stated that the Department believes that "The Defendant's Decision should be amended in accordance with the Defendant's Reply No. (1439/23/34989) dated (22/05/1439 AH), as clarified regarding the item 'Estimated Profits on Imports for the years 2006 to 2012 AD.'" However, the operative wording of the Decision stated "Accept Plaintiff's objection regarding the item 'Customs Duties for the years 2006 to 2011 AD.'" Given that the contradiction between the reasoning of the Decision and its operative wording constitutes a flaw in the Decision that warrants its annulment, it is evident that the dispute was not resolved as indicated in the operative wording of that Decision. Consequently, has not exhausted its jurisdiction in determination of the subject of the dispute. Accordingly, the Department concluded to cancel the appealed Decision and return the same to it for reconsideration in light of the Zakat Payer's original objection.

ZATCA's appeal, regarding the zakat aspect of (Donations for the year 2012 AD) item, lies in its objection to the primary Decision on this item, claiming that the Zakat Payer failed to submit all the required documents during the inspection and objections, which constitutes a violation of a fundamental principle in administrative jurisdiction, namely the obligatory objection to the administrative authority. Having carefully considered the subject matter of the dispute, the Department notes that ZATCA's appeal is based on its objection to the Primary Department acceptance of documents supporting the Zakat Payer's objection, which were not initially submitted during ZATCA's review of the objection. However, ZATCA claims in its appeal that documents not initially submitted to it should not be accepted lacks a legal basis, as Article (23) of Tax Dispute and Violation Committee Procedures grant both parties the right to present evidence before the judicial department by all means of proof that do not contradict the nature of the claim. Since the Department did not observe any requirement for correction or further comment based on the evidence provided to it, the Department concludes that the newly presented evidence does not affect the outcome of the appealed Decision regarding this specific item. Therefore, the Department decided to dismiss the appeal and uphold the primary Decision in this regard.

ZATCA's appeal, regarding the zakat aspect of (Utilized Provisions for the years 2011 and 2012 AD) item, lies in its objection to the primary Decision on this item, claiming that provisions are not considered deductible expenses. Having carefully considered the subject matter of the dispute, the Department found that ZATCA's appeal was based on the argument that its amendments regarding this item aimed to eliminate the impact of the tax partner, as the zakat treatment of provisions is not applicable to the Zakat Payer. Therefore, this Department decided to return this item to the Primary Department for reconsideration in light of ZATCA's treatment and the Zakat Payer's objection to such treatment, and to issue a Decision on whether to accept or reject the Zakat Payer's objection concerning the impact of ZATCA's treatment on the zakat base.

The Zakat Payer's appeal, regarding the zakat aspect of (Customs Duties for the year 2011 AD) item, is based on its objection to the primary Decision regarding this item. The Zakat Payer claims that it submitted all the supporting documents for these expenses and that it



is obligated to facilitate clearance for its clients, incurring all the associated costs, including customs duties. Meanwhile, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. The Department, upon reviewing the appeal and examining the case file, noted that the Zakat Payer provided a sample of documents, including contracts with clients, which demonstrate the Zakat Payer's incurrence of customs duty expenses. Since it has been established that the Zakat Payer incurred the disputed expenses, this Department concludes to accept the Zakat Payer's appeal and overturn the primary Decision regarding this matter.

Based on the foregoing and considering the aforementioned reasons, the Department unanimously decided as follows:

Decision:

First: Accept the appeal filed by the Zakat Payer/ (...) Company, CR (.....), TIN (...), in form And the appeal filed by ZATCA against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam No. (121-2020-00), issued in case number (ZI-10-2018), related to zakat assessment for the years 2006 to 2012 AD.

Second: On Merits:

1. Accept the appeal filed by Zakat Payer regarding the item (Statute of Limitations for the years 2006 to 2010 AD) and overturn the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam and cancel ZATCA's assessment for years in question, except for the assessments related to withholding tax items, in accordance with Grounds and merits mentioned herein.

2. Dismiss the appeals filed by Zakat Payer and ZATCA regarding the tax matter subject to the Case and cancel the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam regarding this matter, in accordance with Grounds and merits mentioned herein.

3. Dismiss ZATCA's appeal regarding the item (Depreciation Differences and Other Fixed Asset Amendments for the years 2011 and 2012 AD) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with Grounds and merits mentioned herein.

4. Accept the appeal filed by ZATCA regarding the item (Import Variances for the years 2011 and 2012 AD), cancel the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, and remand the case for reconsideration, in accordance with Grounds and merits mentioned herein.

5. Dismiss ZATCA's appeal regarding the item (Donations for 2012 AD) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with Grounds and merits mentioned herein.

6. Accept the appeal filed by ZATCA regarding the item (Utilized Provisions for the years 2011 and 2012 AD), cancel the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, and remand the case for reconsideration, in accordance with Grounds and merits mentioned herein.

7. Accept the appeal filed by Zakat Payer regarding the item (Approval of Customs Duties for the year 2011 AD) and overturn the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with Grounds and merits mentioned herein.

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



Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-247

Case No. ZIW-26385-2020

Key words:

Zakat and Tax - Accounts - ZATCA's Treatment on Final Assessment - Statute of Limitations on Assessment - Cancellation of the Department's Decision - Affirmation of the Primary Decision

Abstract

The Appellant (ZATCA/ Zakat Payer) challenges the primary Decision No. (IZD-2020-128) regarding the zakat assessment for the years 2008 to 2012 AD, where it is based on its objection to the Primary Department affirmation of ZATCA's action regarding the final assessment for the year 2012, specifically concerning the item (ZATCA's Treatment on Final Assessment). The Zakat Payer pointed out in its appeal that withholding tax is among the items contested regarding ZATCA's treatment in the final assessment for 2012 AD, noting that this item is not subject to the statutory period concerning ZATCA's right of assessment. ZATCA's appeal is based on its objection to the Primary Department acceptance of the Zakat Payer's objection regarding this item. ZATCA claims that its demonstration that the company's declaration is incorrect is sufficient on its own to amend the declaration concerning the item (Statute of Limitations on Assessments for the years 2008 to 2011 AD). Therefore, the Department ruled to overturn the primary Decision in relation to calculation of zakat and tax base for the Zakat Payer concerning the statute of limitations, cancel the primary Decision regarding (Withholding Tax) item, and dismiss ZATCA's appeal.

Instruments:

- [Zakat Law promulgated by Royal Order No. \(17/28/577\) dated 14/03/1376 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

To consider the appeal presented on .././... AH corresponding to .././... AD by/ (...), National ID No. (...), in his capacity as the legal Representative of the Appellant Company and Appeal filed on .././... AH corresponding to .././... AD by ZATCA against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam No. (IZD-2020-128), issued in case No. (ZIW-9159-2019), regarding the zakat and tax assessment for the years 2008 to 2012 AD, filed by the Appellant against ZATCA. The primary Decision stated the following:

In from: Accept Plaintiff's case in form.

On Merits:

- Accept the Plaintiff's objection regarding 'Statute of Limitations on Assessments for the years 2008 to 2011 AD' item.



- Dismiss the Plaintiff's objection regarding 'ZATCA's Treatment on Final Assessment for 2012 AD' item.

- Confirm settlement of the dispute with regard to Item 'Non-Recognition of Deferred Tax Payments for 2012 AD (Material Error)'

Since both parties to the Case dissatisfied with this Decision; they submitted a statement of appeal summarized as follows:

With regard to the Zakat Payer's appeal against the primary Decision, the Grounds for the appeal are as follows: The Zakat Payer, regarding the item (ZATCA's Treatment on Final Assessment for 2012 AD), objects to the imposition of an estimated profit margin of 10% on the value of imports, asserting that there was an inadvertent declaration of foreign purchases as local purchases in the zakat and tax declaration for 2012 AD. Therefore, the Zakat Payer requests issuance of an amended assessment. Concerning depreciation differences, the Zakat Payer calculated the amendments on differences based on provisions of Article (17) of the Income Tax Law. For social insurance contributions, the Zakat Payer seeks deductions, asserting that they are necessary and essential for the income-generating activity subject to tax. Regarding the addition of Saudi partners' shares to the zakat base, the requirement of full ownership has not been met, and the liabilities have not been utilized to finance deductible assets. In relation to the imposition of a 15% withholding tax on loan costs, the Zakat Payer contends that the interest should not exceed 5%, in accordance with Paragraph (1) of Article (63) of the Implementing Regulations of the Income Tax Law. As for the late payment fine, the Zakat Payer asserts compliance with tax regulations and claims that the dispute with ZATCA is a genuine technical dispute. Therefore, the late payment fine should not be imposed from the date of the assessment. Accordingly, the Zakat Payer requests overturning the primary Decision regarding the contested items for the aforementioned reasons.

As the Decision was not accepted by ZATCA, it filed its appeal against the contested Decision, as detailed in the following statement of appeal:

ZATCA, regarding the item (Statute of Limitations on Assessments for the years 2008 to 2011 AD), clarifies that its demonstration of the company's declaration being incorrect is sufficient on its own to amend the declaration based on Paragraph (8-C) of Article (21) of the Implementing Regulations for Zakat Collection issued in 1438 AH and Article (65), Paragraph (B) of the Income Tax Law. Furthermore, the Department did not discuss the item concerning import variances sufficiently to establish the validity of the declaration submitted by the Plaintiff to ZATCA. ZATCA contends that its amendment to the declarations regarding the item (Import Variances) cannot be overlooked, as it was prepared incorrectly by the Zakat Payer. Therefore, ZATCA is entitled to amend the declaration within the statutory period of ten (10) years. Consequently, ZATCA insists on accuracy and correctness of its procedures and requests upholding its action and overturning the primary Decision with respect to the contested items under ZATCA's appeal for the aforementioned reasons.

The Department decided to open the pleading. Therefore, ZATCA submitted a Reply on 10/01/1443 AH, corresponding to 18/08/2021 AD, in response to Zakat payer's appeal. In summary the Reply included reaffirmation of its position presented before the Primary Department. It further asserts that the objection raised by the Zakat Payer regarding this item is inadmissible in form, as it lacks justification, based on Paragraph (A) of Article (60) of the implementing Regulations of the Income Tax Law and Paragraph (4-A) of Article (22) of the Implementing Regulations for Zakat Collection. Therefore, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision for the aforementioned reasons.



On Tuesday, 21/10/1443 AH corresponding to 22/05/2022 AD, the Department decided to hold a 10-day e-hearing. The period elapsed without any additional submissions from either party to the appeal.

The Department, after reviewing the appeal memoranda and the responses, and after examining the documents and papers contained in the case file, decided that the case was ready for determination and the issuance of a ruling on its merits on Monday 19/12/1443 AH corresponding to 18/07/2022 AD. Accordingly, the Department decided to close the pleadings and reserve the case for a final Decision.

Grounds:

Upon reviewing Case documents and statement of appeal submitted by Zakat Payer, the Department found that conditions of appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations, and Decisions. Therefore, the Appeal request was accepted in form for being submitted by a person with legal capacity and within the statutory prescribed period.

As for merits of the case, the Zakat Payer's appeal, regarding the item (ZATCA's Treatment on Final Assessment for the year 2012 AD), is based on its objection to the Primary Department endorsement of ZATCA's action in treating the final assessment for the year 2012 AD. In contrast, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. Having reviewed Zakat Payer's appeal and examined the documents contained in the case file, the Department found ZATCA's assessment of the Zakat Payer for all years, including 2012 AD, was dated 12/7/1439 AH, corresponding to 28/03/2018 AD, revealing that the assessment was made after the statutory period had lapsed for ZATCA's right to assess the Zakat Payer, which expires five years from the date of filing the declaration. Since the date of the declaration for 2012 AD is 20/06/1434 AH corresponding to 30/04/2013 AD, ZATCA's right expires on 20/06/1439 AH corresponding to 07/03/2018 AD. Given that the Hijri calendar is the basis for calculating statutory periods, the Department concludes that ZATCA is no longer entitled to assess the Zakat Payer after the statutory period has elapsed. The Zakat Payer, in its appeal, referenced the withholding tax as part of its objection to ZATCA's treatment on final assessment for 2012 AD. Since this item is not subject to the statutory period concerning ZATCA's right of assessment, and given that the Primary Department rejected the Zakat Payer's objection to the 2012 assessment without providing a specific reasoning for the rejection, the Zakat Payer argued that ZATCA's Decision lacked sufficient justification to allow for a substantiated objection. Consequently, this Department concludes to overturn the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam with respect to the calculation of zakat and tax base for the Zakat Payer for the purposes of statute of limitations. It further rules that the Zakat Payer should be assessed for that year based on its declaration, cancels the Decision concerning the withholding tax item and any related fines, and remands the case for reconsideration of this specific item in merits, as outlined in the Zakat Payer's objection.

ZATCA's appeal, regarding the item (Statute of Limitations on Assessment for the years 2008 to 2011 AD), lies in ZATCA's objection to the primary Decision to accept the Zakat Payer's objection to this item. its proof that the company's declaration was incorrect is sufficient in itself to amend the declaration. However, the Zakat Payer argued, requesting dismissing ZATCA's appeal and upholding the primary Decision. After reviewing the case file and its contents, the Department established that the zakat and tax declarations for the years 2008 to 2011 AD were governed by the provisions of the Income Tax Law and the Implementing Regulations for Zakat Collection at that time, which included provisions governing the process and procedures of assessment of zakat payers, and given that these



provisions explicitly stated that ZATCA's right to assess is limited to five (5) years from the deadline for filing tax declaration, and since the matter is as stated, the Zakat Payer's declaration becomes final after the five-year period from the deadline for its submission, unless ZATCA exercises its right to make amendments during that period or proves the existence of intent of tax evasion by submitting an incomplete declaration within ten (10) years from the final date set for submission of declaration; and since the stability of the legal and financial positions is an essential goal confirmed by the Law, as it stipulates that ZATCA may not exceed the five-year period for assessment except in the case of a tax evasion, provided that it does not exceed ten (10) years to exercise such right; and since assessment was made in violation of the Law as stated above, with which the goal of stabilizing the financial and legal positions of zakat Payers will not be achieved; Therefore, the Department satisfies to decide that ZATCA has no right to make the Zakat Assessment on years in question, to dismiss ZATCA's appeal, and uphold the primary Decision in this regard.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

First: Accept the appeal in form by the Zakat Payer/ ... company, CR No. (...), TIN No. (...), and ZATCA's appeal against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam No. (IZD-2020-128), issued in case number (ZIW-9159-2019), related to zakat assessment for the years 2008 to 2012 AD.

Second: On Merits:

1. The primary Decision, regarding (ZATCA's Treatment on Final Assessment for 2012 AD) item, ruled as follows:

A. The Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam regarding the calculation of the Zakat Payer's zakat and tax base for the purpose of the statute of limitations is overturned, and the Zakat Payer shall be assessed for that year based on its submitted declaration, in accordance with the reasons and justifications stated herein.

B. The Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam regarding the withholding tax item and the associated fine is canceled and the case is remanded for reconsideration of this item in merits, in accordance with the reasons and justifications stated herein.

2. ZATCA's appeal regarding the item (Statute of Limitations on Assessment for the years 2008 to 2011 AD) is dismissed and the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam is upheld, in accordance with the reasons and justifications stated herein.

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



Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-281

Case No. ZIW-26355-2020

Key words:

Zakat and Tax - Accounts - Statute of Limitations - Withholding Tax Rate - IT Expenses - Payables and Related Parties

Abstract

The Appellant (ZATCA/ Zakat Payer) challenges the primary Decision No. (IZD-2020-98) regarding the zakat and tax assessment for the years 2008 to 2015 AD. ZATCA's appeal, regarding the item (Statute of Limitations), centers on the discrepancy between the reasoning and the ruling of the Decision, where reasoning focused solely on the five-year statute of limitations, while the ruling encompassed both zakat and tax assessments. ZATCA contends that it cannot reopen the assessment without adhering to a specified timeframe. This principle aligns with the concept of stability for the financial and legal positions of zakat payers, preventing their situations from being indefinitely unresolved. Moreover, ZATCA, concerning the item (Withholding Tax Rate), argues it has determined the company's activities (...), which establish a permanent establishment in the Kingdom, requiring it to register with ZATCA, submit tax declarations, and declare all revenues generated within the Kingdom. The Zakat Payer's appeal, regarding the item (Payables and Related Parties), relied on regulatory provisions that were not in effect when the company submitted its declarations. It is established, according to relevant fatwas, that financing, regardless of its source, should be included in the zakat base once a full year has passed or if it is used to finance assets that are exempt from the base. Therefore, the Department ruled to dismiss both appeals filed by ZATCA and the Zakat payer and to uphold the primary Decision.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

To consider the appeal presented on .././.... AH corresponding to .././.... AD by/ (...), ID No. (...), in his capacity as the Attorney of the Appellant Company pursuant to PoA No. (...) and Appeal filed on 02/03/1442 AH corresponding to .18/10/2020 AD by ZATCA against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam No. (IZD-2020-98), issued in case No. (ZIW-1-2018), regarding the zakat and tax assessment for the years 2008 and 2015 AD, filed by the Appellant against ZATCA. The primary Decision stated the following:

In from: Accept Plaintiff's case in form.

On Merits:



- Accept Plaintiff's objection regarding the tax and zakat assessment for the years 2008 to 2010 AD.
- Accept Plaintiff's objection regarding the reduction of withholding tax rates from 20% to 8% and request application of double taxation avoidance agreement for the years 2008 to 2015 AD.
- Confirm settlement of the dispute with regard to the shares of Saudi and foreign partners for the years 2008 to 2015 AD.
- Confirm settlement of the dispute with regard to the advance payments and differences in the tax paid.
- Amend the Defendant's Decision concerning the item of accounts payable, accounts with related parties, accrued expenses, and other payables for the years 2008 to 2015 AD.
- Amend Plaintiff's objection regarding the amendment of profits in the item of recoverable costs for the years 2011 to 2015 AD.
- Confirm settlement of the dispute with regard to non-deduction of capital gains from net profit for the years 2011 to 2015 AD.
- Confirm settlement of the dispute with regard to non-deduction of projects under development for 2011 AD.
- Confirm settlement of the dispute with regard to calculation of partners' shares from net assets and their depreciation.

Since both parties to the Case dissatisfied with this Decision; they submitted a statement of appeal summarized as follows:

The Zakat Payer's appeal against the primary Decision, concerning the item (Payables and Related Parties), is based on that the Department that delivered the Decision relied on regulatory provisions that were not in effect when the company submitted its declarations. Additionally, fatwas explicitly refer to loans, while this item represents creditor balances typically arising from the company obtaining goods and services. Consequently, the Zakat Payer requests overturning the primary Decision with respect to the contested item for the aforementioned Grounds.

As for ZATCA's appeal against the Primary Department's Decision in question, it included the following:

The Zakat Payer's appeal against the primary Decision, concerning the item (Payables and Related Parties), is based on that the Department that delivered the Decision relied on regulatory provisions that were not in effect when the company submitted its declarations. Additionally, fatwas explicitly refer to loans, while this item represents creditor balances typically arising from the company obtaining goods and services. Consequently, the Zakat Payer requests overturning the primary Decision with respect to the contested item for the aforementioned Grounds.

As for ZATCA's appeal against the Primary Department's Decision in question, it included the following:

Regarding ZATCA's appeal against the primary Decision, ZATCA initially challenges the territorial jurisdiction of the Department that delivered the appealed Decision. ZATCA, regarding the item (Tax and Zakat Assessment (Five-Year Statute of Limitations) for the years 2008 to 2010 AD), clarifies that there is a discrepancy between the reasoning and ruling of the Decision, where reasoning focused solely on the five-year statute of limitations for tax assessments, while the ruling encompassed both zakat and tax assessments. ZATCA stated that the assessment on the Zakat Payer was based on Paragraph (B) of Article (65) of the Income Tax Law and Paragraph (8) of Article (21) of Zakat Regulations issued by Ministerial Decision No. (2082). Furthermore, ZATCA indicated that it communicated with the Zakat Payer in the sixth month of 1437 AH under a billing notice for the years 2008 to 2010 AD, and such notices were issued prior to the issuance of the Implementing Regulations for Zakat Collection issued by Ministerial



Resolution No. (2082) dated 01/06/1438 AH, resulting in non-application of provisions of Article (21). Assuming the provision was in effect, amendments were made to the declarations submitted by the company for these years. ZATCA, regarding tax assessment, previously assessed the company for 2009 AD on 26/7/1432 AH, which definitively interrupted the five-year statute of limitations. The company was also notified through a billing notice for 2010 AD, which constituted timely notification within the statutory period. Regarding the item (Withholding Tax Rate Reduction from 20% to 8% and the Application of the Double Taxation Avoidance Agreement for the years 2008 To 2015 AD), ZATCA clarified that Letter No. (1439/1/26363) dated 29/07/1439 AH stated that, based on field examinations, the activities carried out by (...) company establish a permanent establishment in the Kingdom. Consequently, the company is required to register with ZATCA, submit tax declarations, and declare all revenues generated within the Kingdom. If the committee concludes that no permanent establishment exists, the company must provide documentation to prove its eligibility for the benefits outlined in the double taxation avoidance agreement between the Kingdom and the United Kingdom. ZATCA, regarding the item (Profit Adjustment), highlights a discrepancy between the reasoning and ruling of the Decision and further states that the company's reliance on incorrectly naming the item as "IT expenses" is illogical and unacceptable without actual supporting documents. A certified public accountant's certificate, along with supporting documentation, should be provided to allow ZATCA to verify compliance with all procedures ensuring the legitimacy of the item and to confirm that the error has persisted for all these years. Therefore, ZATCA insists on accuracy and correctness of its procedures and requests overturning the primary Decision on the appealed item for the aforementioned Grounds.

The Department decided to open the pleading. Therefore, ZATCA submitted a Reply on 09/08/1442 AH, corresponding to 22/03/2021 AD. In summary the Reply included that ZATCA reaffirms validity of the appealed Decision based on the reasoning and legal provisions. it also added the opening and closing balances, whichever is less, to the item, considering that a full year had passed based on the financial statements. ZATCA bases its actions on Fatwa No. (22665) of 1424 AH, Fatwa No. (2/3077) of 1426 AH, and Paragraph (5), Item (First) of Article (4) of the Implementing Regulations for Zakat Collection issued in 1438 AH. Furthermore, ZATCA requests that no new documents be accepted that were not submitted during the examination and objection phases. Therefore, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision for the aforementioned reasons. Zakat payer also submitted a Reply in which it requested dismissing ZATCA's appeal in form for failing to meet the requirements outlined in Article (188) of Law of Civil Procedures and Paragraph (1/188) of the relevant Implementing Regulations. As for the merits of case, the Zakat Payer requests dismissal of ZATCA's appeal and upholding the appealed Decision with respect to the contested items under ZATCA's appeal.

On Sunday, 21/10/1443 AH corresponding to 22/05/2022 AD, the Department decided to hold a 10-day e-hearing. Consequently, the Zakat Payer presented a supplementary memorandum.

The Department, after reviewing the appeal memoranda and the responses, and after examining the documents and papers contained in the case file, decided that the case was ready for determination and the issuance of a ruling on its merits on Thursday 27/01/1444 AH corresponding to 25/08/2022 AD. Accordingly, the Department decided to close the pleadings and reserve the case for a final Decision.

Grounds:





Having taken cognizance of the case documents and statement of appeal submitted by Zakat Payer and ZATCA, the Department found that conditions for hearing appeal have been met in form in accordance with conditions stipulated in relevant laws, regulations, and Decisions. Therefore, both appeals are accepted in form for being filed by parties having capacity and within the prescribed statutory period.

As for merits of case, concerning ZATCA's appeal regarding its claim of lack of territorial jurisdiction by the Department that delivered the appealed Decision, the Department reviewed the appealed Decision and the provisions of Article (6) of Tax Dispute and Violation Committee Procedures. It was established that there is a branch of ZATCA within the jurisdiction of the Department that delivered the appealed Decision. Therefore, this department concludes to dismiss ZATCA's argument regarding territorial jurisdiction.

ZATCA's appeal, regarding the item (Statute of Limitations for the period 2008 to 2010 AD), lies in its objection to the relevant primary Decision, claiming that there is a discrepancy between the reasoning and ruling of the Decision, where reasoning focused solely on the five-year statute of limitations for tax assessments, while the ruling encompassed both zakat and tax assessments. On the other hand, the Zakat Payer maintains validity and integrity of the primary Decision and requests dismissal of ZATCA's appeal and upholding the primary Decision. Having carefully considered the subject matter of the dispute, reviewed the appeal, and examined the documents contained in the case file, the Department finds that the legal provisions governing the reopening of assessments consider the end of the deadline for submitting the tax declaration for the fiscal year as the relevant date for reopening the final assessment. Since there is no evidence before the Department indicating that the Zakat Payer concealed information with the intent of tax evasion, ZATCA does not have the right to reopen the assessment without adhering to a specified timeframe. This principle aligns with the concept of stability for the financial and legal positions of zakat payers, preventing their situations from being indefinitely unresolved. The Department concludes that the results reached by the Primary Department are correct and, therefore, determines that ZATCA lacks the right to assess the Zakat Payer after the expiration of the period during which it is entitled to make such assessments. Consequently, the Department decides to dismiss ZATCA's appeal and uphold the primary Decision in this regard.

As for ZATCA's appeal regarding item (Withholding Tax Rate from 20% to 8% and Call for Implementation of Double Taxation Prevention Convention of 2008 – 2015), which includes its objection to the Primary Department's Decision regarding the same, as ZATCA claims that a permanent establishment has been founded for the business carried out by Company within the Kingdom. In addition, the Company is required to register with ZATCA, submit its Tax Returns, and declare all its revenues generated within the Kingdom, while Zakat Payer argued that it adheres to the validity and soundness of the appealed Decision and requests that ZATCA's appeal be dismissed and the appealed Decision be upheld. The Department, having taken cognizance of the subject of dispute, ZATCA's appeal, and contents of the Case file, found that; since the conclusion reached by the Primary Department was sound and valid, and the Grounds on which its Decision was based were sufficient to uphold this Decision; Therefore, the Department satisfies to dismiss ZATCA's appeal and uphold the appealed Decision as to conclusions it had in this regard.

As for ZATCA's appeal regarding item (Information Technology Expenses), which includes its objection to the Primary Department's Decision regarding the same, as ZATCA claims that there is a difference between the Grounds of the appealed Decision and its wording, and that Zakat Payer has made a mistake in naming the item in question, as its correct name is "Information Technology Expenses", without submitting physical



documents supporting the same, while Zakat Payer argued that it adheres to the validity and soundness of the appealed Decision and requests that ZATCA's appeal be dismissed and the appealed Decision be upheld. The Department, having taken cognizance of the subject of dispute, ZATCA's appeal, and contents of the Case file, found that; since the conclusion reached by the Primary Department was sound and valid, and the Grounds on which its Decision was based were sufficient to uphold this Decision; and since the aforementioned is not affected by ZATCA claiming the existence of a difference between the Grounds of the Decision and its wording, as there was no apparent difference between the conclusion reached in the Grounds of the appealed Decision and its wording; Therefore, the Department satisfies to dismiss ZATCA's appeal and uphold the appealed Decision as to conclusions it had in this regard.

As for Zakat Payer's appeal regarding item (Accounts Payable and Related Parties), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that the Primary Department based its Decision on non-applicable statutory provisions upon submitting Tax Returns by the company, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. The Department, having taken cognizance of the subject of dispute, ZATCA's appeal, and contents of the Case file, found that; since it is established in the applicable Fatwas that the financing, whatever its source, is added to Zakat Base whenever it completes Zakat Year or if it is being used in financing deductible assets from Zakat Base, which result in addition of the financing amounts to Zakat Base; and since the Primary Department's Decision has determined amounts that had completed the Zakat Year as per the statements submitted by Zakat Payer and notes of the financial statements; and since this Department found that the conclusion reached by the Primary Department was sound and valid, and the Grounds on which its Decision was based were sufficient to uphold this Decision; Therefore, the Department satisfies to dismiss Zakat Payer's appeal and uphold the appealed Decision as to conclusions it had in this regard.

Decision:

First: Accept Zakat Payer's (..... Company, C.R. No., TIN No.) appeal and ZATCA's appeal; against Decision No. (IZD-2020-98) delivered by the First Department for Determination of Income Tax Violations and Disputes in Dammam in Case No. (ZIW-1-2018) in connection with Zakat and Tax Assessment of 2008 – 2015, in form.

Second: On Merits:

1. Dismiss ZATCA's appeal on item (Prescription of 2008 – 2015) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, for the Grounds stated therein.
2. Dismiss ZATCA's appeal on item (Withholding Tax Rate from 20% to 8% and Call for Implementation of Double Taxation Prevention Convention of 2008 – 2015) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, for the Grounds stated therein.
3. Dismiss ZATCA's appeal on item (Information Technology Expenses) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, for the Grounds stated therein.
4. Dismiss Zakat Payer's appeal on item (Accounts Payable and Related Parties) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, for the Grounds stated therein.

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



The Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-297
Case No. ZW-26397-2020

Key words:

Zakat and Tax – Accounts – Deduction of Profit Earned from Realized Revenues – Approval of Deduction of Dividends Paid from Zakat Base – Withholding Tax – Late Payment Fine

Abstract

The Appellant (Zakat Payer) filed this case to abolish Decision No. (IZD-2020-137) delivered by the Primary Department regarding Zakat and Tax Assessment of 2011 and 2012 AD, as Zakat Payer's appeal included its objection to the Primary Department's Decision regarding items (Deduction of Profit Earned from Realized Revenues Outside the Kingdom from Total Profit Subject to Zakat of 2012), (Approval of Deduction of Dividends Paid from Zakat Base of 2012), (Withholding Tax), and (Late Payment Fine).

The Department found that:

As for ZATCA's Assessment of 2011; the Assessment was made after the lapse of the period prescribed by the Law to amend Zakat Payer's Declaration.

As for item (Deduction of Profit Earned from Realized Revenues Outside the Kingdom from Total Profit Subject to Zakat of 2012); Zakat Payer has failed to provide a proof of payment of Zakat due in the country of investment.

As for item (Approval of Deduction of Dividends Paid from Zakat Base of 2012); the deferred profits are added to the Zakat Base upon the completion of a Lunar Year on, and that Zakat Payer has failed to submit documents supporting its claim.

As for item (Withholding Tax); Zakat Payer has submitted documents proving that the assets in question are located outside the Kingdom.

As for item (Late Payment Fine); since Zakat Payer's objection to item (Withholding Tax) has been accepted, the associated fine is dismissed accordingly. The Department decided to abolish ZATCA's Decision regarding the Zakat Assessment of 2011; accept Zakat Payer's appeal on items (Withholding Tax), and (Late Payment Fine), and dismiss the same on items (Deduction of Profit Earned from Realized Revenues Outside the Kingdom from Total Profit Subject to Zakat of 2012), (Approval of Deduction of Dividends Paid from Zakat Base of 2012).

Instruments:

- [Zakat Law promulgated by Royal Order No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The Department convened to consider the appeal filed on .../.../... AH, corresponding to .../.../... AD by Mr., holder of National ID No., in his capacity as the Appellant Company's Attorney, under POA No., against Decision No. (IZD-



2020-137) delivered by the First Department for Determination of Income Tax Violations and Disputes in Dammam, in Case No. (ZW-9122-2019) in connection with Zakat and Tax Assessment of 2011 and 2012 AD, filed by Zakat Payer against Zakat, Tax, and Customs Authority (“ZATCA”). The appealed Decision ruled as follows:

In from: Accept Plaintiff’s case in form.

On Merits:

- Dismiss Plaintiff’s objection to item (Revenues Realized Outside the Kingdom).
- Dismiss Plaintiff’s objection to item (Paid Dividends).
- Amend Defendant’s Decision on item (Accounts Payable).
- Amend Defendant’s Decision on item (Accrued Amounts to Related Parties).
- Dismiss Plaintiff’s objection to item (Withholding Tax).
- Dismiss Plaintiff’s objection to item (Late Payment Fine).

Since Zakat Payer (..... Company) dissatisfied with this Decision; it submitted a statement of appeal summarized as follows:

Zakat Payer objects to the Primary Department’s Decision in question, claiming that:

As for item (Realized Revenues Outside the Kingdom); the revenues were generated from business that have been carried out outside the Kingdom during 2011 and 2012. Accordingly, the profit generated outside the Kingdom should be exempted from being added to Zakat Base pursuant to the “Principle of Actual Revenues and Costs”, as well as the “Territorial Principle.”

As for item (Paid Dividends); the expenses were incurred on behalf of the partners that were due from them during 2011 and 2012. In addition, based on the partners’ Decision, the amounts due from partners were settled against the dividends due to them, while the balance of the amount was paid through the bank.

As for item (Withholding Tax); the withholding tax was charged at an amount of (SAR 1,497,985) for 2011 and an amount of (SAR 42,380), on the amounts paid to non-resident parties, in connection with the rental of equipment and insurance services, while they were incurred by (Branches of Company for Global Services and Maintenance) outside the Kingdom in exchange for the rental of equipment and insurance of assets located outside the Kingdom.

As for item (Late Payment Fine); due to the existence of a substantive disagreement, the late payment fine should not be imposed except from the date of issuance of the final Decision. Based on the foregoing, Zakat Payer requests that the appealed Decision be reversed for the stated Grounds.

On Sunday, 21/10/1443 AH, corresponding to 22/05/2022 AD, the Department decided to hold a 10-day e-hearing session, in which ZATCA submitted a Rejoinder responding to Zakat Payer’s appeal, a summary of which included that:

As for item (Unrealized Revenues Outside the Kingdom); ZATCA clarifies that all revenues are subject to Zakat, whether their source is inside or outside the Kingdom, unless Zakat Payer proves their payment in the country in which the service was provided and through which the revenue was realized for the purpose of avoiding double payment of Zakat. In addition, ZATCA clarifies that its Decision was based on Article (1.2) of the Implementing Regulations for the Collection of Zakat of 1438 AH and Clauses (1) and (2) of Ministerial Decision No. (393) of 1370 AH.

As for item (Paid Dividends); ZATCA clarifies that it had partially accepted this item for the submission of document by Zakat Payer showing the payment of dividends to partners. In addition, ZATCA clarifies that the remaining amount was added to Zakat Base due to the completion of the Hijri Year pursuant to Paragraph (8/First) of Article (4) of the Implementing Regulations for the Collection of Zakat of 1438 AH.

As for item (Withholding Tax); ZATCA clarifies that the resident party is responsible for collecting the withholding tax from the non-resident party and remitting thereof to



ZATCA pursuant to Article (68/A) of Income Tax Law and Article (63.1) of its Implementing Regulations.

As for item (Late Payment Fine); ZATCA imposed the late payment fine on the differences that were not paid on their statutory date pursuant to Article (77/A) of Income Tax System and based on Paragraph (1/B) of Article (68) of its Implementing Regulations. Furthermore, ZATCA requests the Department not to accept any new petitions from Zakat Payer based on Article (186) of Law of Civil Procedure. Based on the foregoing, ZATCA adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld for the stated Grounds.

On Monday, 03/01/1444 AH, corresponding to 01/08/2022 AD, the Department, having taken cognizance of Zakat Payer's appeal, found that the dividends amount is (SAR 24,659,566) for 2012, and that ZATCA has added an amount of (SAR 909,566) to the Zakat Base of Zakat Payer from these dividends, and has excluded the rest of the amount. Accordingly, the Department has requested ZATCA to submit a statement explaining the reasons on which it based its procedure to add the amount in question to the Zakat Base of Zakat Payer, within ten (10) days from this date. The Department has also requested Zakat Payer to a proof of the existence of amounts due from partners prior to the approval of Decision of dividends based on Zakat Payer's financial statements and books, along with a proof of settlement of those amounts due with the declared dividends, during the year in question and prior to the completion of Zakat Year of profits before announcing their distribution, within ten (10) days from this date.

On Wednesday, 13/01/1443 AH, corresponding to 10/08/2022 AD, ZATCA submitted a statement regarding the reasons on which it based its action to add the amount in question to the Zakat Base of Zakat Payer, stating that it had partially accepted the Zakat Payer's (Plaintiff) objection due to the submission of showing the payment of dividends to partners (2011/2012 – "SAR 39,337,500" / "SAR 23,750,000"), and had added the remaining amount to Zakat Base due to the proof of completion of the Hijri Year pursuant to Paragraph (8/First) and Paragraph (11/First) of Article (4) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) of 01/06/1438 AH, which stipulates: "The Zakat Base consists of all Zakat Payer's funds subject to Zakat, including the following: 8. Balance of profits carried forward from previous years at the end of the year; 11. Profits under distribution, except for profits announced for distribution but whose owners have not received them, provided that they are deposited in a special account that the company is not permitted to dispose of." In addition, ZATCA stated that the Primary Department has established that Zakat Payer has failed to submit documents supporting the distribution of those profits in accordance with the legal requirements, considering that the burden of proof falls on Zakat Payer pursuant to Article (20.3) of the Implementing Regulations for the Collection of Zakat, which stipulates: "The burden of prove of correctness of information in Zakat Payer's Declaration regarding items and any other data rests on Zakat Payer. If Zakat Payer fails to prove correctness of the items in its Declaration, the Authority may disapprove the item whose correctness has not been proven by Zakat Payer or make an Estimated Assessment according to the Authority's opinion based on relevant circumstances and facts and available information." Furthermore, ZATCA stated that its procedure had previously been upheld pursuant to Appeal Decision No. (1623) of 1437 AH and Decision No. (1752) of 1438 AH. Based on the foregoing, it is demonstrated that the Primary Department's Decision regarding the item in question is sound and valid.

On Sunday 01/02/1443 AH, corresponding to 28/08/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its



merits. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds:

Having taken cognizance of Case documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been met in form in accordance with conditions stipulated in relevant laws, regulations, and Decisions. Therefore, the appeal is accepted in form for being filed by a party having capacity and within the prescribed statutory period.

On Merit: Since the Department found that the ZATCA's Assessment of 2011 was made after the lapse of the period prescribed by the Law to amend Zakat Payer's Declaration, which is five (5) years from the final date set for submission of Zakat Declaration by Zakat Payer for each year; and since these rules are established to maintain the stability of transactions and prevent instability of Zakat Payers' positions in case of absence of a timeframe that ensures maintaining their financial positions not jeopardized; and since this matter does not result in releasing Zakat Payer from its legal obligation if it is already concerned with meeting such obligation, but rather represents a procedural issue with relation to ZATCA right to reopen Assessments after the lapse of the period prescribed by the Law; Therefore, the Department satisfies to decide invalidity of ZATCA's procedure for making those amendments and, by extension, to abolish ZATCA's Assessment of 2011 and calculate Zakat on Zakat Payer based on its Zakat Declaration for that year, and reverse the appealed Decision as to conclusions it had in this regard.

Regarding Zakat Payer's appeal concerning the item "deduction of profit earned from revenues generated outside the Kingdom of Saudi Arabia from the total profit subject to Zakat for the year 2012," the appeal is based on objection to the Decision made by Primary Department on this item. Zakat Payer claims that the revenues were earned from activities conducted outside the Kingdom and, therefore, the profit shall be exempt from inclusion in the Zakat base according to the principle of actual revenues and costs. Meanwhile, ZATCA asserts the correctness and validity of its procedure and requests rejection of Zakat Payer's appeal and confirmation of Primary Department's Decision. Upon reviewing the subject of dispute, examining Zakat Payer's appeal, and scrutinizing case file, the Department finds that revenues are subject to Zakat regardless of their type or source location, and they shall be added to Zakat base unless Zakat has already been paid on them. Since Zakat Payer did not provide evidence of paying Zakat in the country of investment, the Department concludes to reject Zakat Payer's appeal and uphold Primary Department's Decision in this regard.

Regarding Zakat Payer's appeal concerning the item "approval of deduction of dividends paid from Zakat base for the year 2012," the appeal is based on objection to the Decision made by the Primary Department on this item. Zakat Payer claims that expenses were incurred on behalf of the partners, and the amounts due from them were settled against the dividends payable to them based on partners' Decision. Meanwhile, ZATCA asserts the correctness and validity of its procedure and requests rejection of Zakat Payer's appeal an confirmation of Primary Department's Decision. Upon reviewing the subject of dispute, examining Zakat Payer's appeal, and scrutinizing case file, the Department finds that retained earnings shall be added to the Zakat base after completion of the lunar year, provided they have not been distributed or otherwise disposed of before completion of the year. Since the dispute is document-based, the Department reviewed case file and found that Zakat Payer attached the Board of Directors' Decision dated 13/02/1434H (corresponding to 26/12/2012), which declared a dividend distribution amounting to SAR (24,659,566). It is clear that dividend announcement was made after completion of the lunar year. As Zakat Payer did not provide evidence to support his claim, the Department



concludes to reject Zakat Payer's appeal and uphold Primary Department's Decision regarding the outcome.

Regarding Zakat Payer's appeal concerning the item "withholding tax," the appeal is based on objection to the Decision made by the Primary Department on this item. Zakat Payer claims that withholding tax was imposed on amounts paid to non-resident entities, which were incurred by the branches of (... Company) outside the Kingdom for renting equipment and insuring assets located outside the Kingdom. Meanwhile, ZATCA asserts the correctness and validity of its procedure and requests rejection of Zakat Payer's appeal and confirmation of Primary Department's Decision. Upon reviewing the subject of dispute, examining Zakat Payer's appeal, and scrutinizing case file, it became evident that ZATCA subjected the amounts paid to the foreign branches for renting equipment and insuring assets located outside the Kingdom, in violation of the regulatory provisions. These amounts arose from immovable property located outside the Kingdom. Zakat Payer attached supporting documents showing that the assets in question were indeed located outside the Kingdom. Zakat Payer submitted rental invoices, issued checks, and a list provided by (..... Company). The issued invoices provided by the Appellant clearly indicate the location, date, and amount of the rental. Therefore, this Department concludes to accept Zakat Payer's appeal, determining that the amounts paid are outside the scope of withholding tax, and to overturn Primary Department's Decision on this matter.

Regarding Zakat Payer's appeal concerning the "late payment fine," the appeal is based on the objection to Primary Department's Decision on this item. Zakat Payer claims that the fine shall not be calculated during a genuine dispute and shall only be applied as of the date of final ruling. Meanwhile, ZATCA asserts the correctness and validity of its procedure and requests rejection of Zakat Payer's appeal and confirmation of Primary Department's Decision. Upon reviewing the subject of dispute, examining Zakat Payer's appeal, and scrutinizing case file, the Department accepted Zakat Payer's objection to the withholding tax item, and therefore, the fine is void due to annulment of its original basis. In view of the foregoing, and in light of stated Grounds, the Department unanimously decided as follows:

Decision:

First: Accept, in form, the Appeal submitted by Zakat Payer/(..... Company), with Commercial Register No. (...), TIN (...), against Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, No. (IZD-2020-137), issued regarding Case No. (ZW-9122-2019), related to the zakat and tax assessment for the years 2011 and 2012.

Second: On Merits:

1- Annul ZATCA's Decision regarding Zakat assessment for the year 2011, overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam concerning the outcome, and determine that Zakat shall be calculated based on Zakat Payer's Zakat declaration for that year, in accordance with the reasons and rationale stated in this Decision.

2- Reject Zakat Payer's appeal regarding the item "deduction of profit earned from revenues generated outside the Kingdom of Saudi Arabia from the total profit subject to Zakat for the year 2012," and uphold Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the reasons and rationale stated in this Decision.

3- Reject Zakat Payer's appeal regarding the item "approval of the deduction of dividends paid from Zakat base for the year 2012," and uphold Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the reasons and rationale stated in this Decision.



4- Accept Zakat Payer's appeal regarding the item "withholding tax" and overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the reasons and rationale stated in this Decision.

5- Accept Zakat Payer's appeal regarding the item "late payment fine" and overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the reasons and rationale stated in this Decision.

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



The Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax
Violations and Disputes In Riyadh

Decision No. IR-2022-367
Case No. Z-62868-2021

Key words:

Zakat and Tax – Accounts – Withholding Tax – Owner's Current Account Balance – Notes Payable – Long-term Loans – Credit Bank Balances – Suppliers of Spare Parts and Fixed Assets

Abstract

The Appellant (ZATCA) is requesting annulment of Primary Department's Decision No. (IR-2021-126) concerning the Zakat and tax assessment for the years 2001 to 2005. ZATCA's appeal focuses on the "withholding tax for the year 2005" and "owner's current account balance for the year 2005," objecting to Primary Committee's Decision on these items. It has been established that ZATCA's assessment for the years 2001 to 2004 was made after the statutory period for making amendments to Zakat Payer's declaration had expired. Regarding the "withholding tax for the year 2005," ZATCA's appeal was found to repeat previous claims, and as for "owner's current account balance for the year 2005," ZATCA did not provide any evidence to support its claim. The effect of this is annulment of ZATCA's assessment for the years 2001 to 2004, rejection of ZATCA's appeal on all items, and dismissal of ZATCA's appeal concerning the "projects under construction" item for the year 2015.

Instruments:

- Article (177) of the Law of Civil Procedures, issued by Royal Decree No. [\(M/1\)](#) dated 22/01/1435 AH
- Article (68) of [Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)

Facts:

This is to review the petition submitted on .././...AH, corresponding to .././...AD, by ZATCA regarding Decision of the First Appellate Department for Income Tax Violations and Disputes No. (IR-2021-126), issued in case No. (Z-1726-2018) concerning Zakat and tax assessment for the years 2001 to 2005, filed by Zakat Payer against ZATCA. As this Decision was not accepted by the petitioner (ZATCA), it submitted a petition summarizing the following:

ZATCA objects to Decision of the Appellate Department, claiming that the Department did not address ZATCA's appeal at all but only ruled on Zakat Payer's appeal, despite ZATCA having submitted its appeal in its letter No. (4/37556140) dated 01/01/1435 AH. ZATCA also referred to its appeal on the primary Decision in its response to Zakat Payer's appeal. Therefore, based on Article (200) and Article (201) of the Law of Civil Procedures and Articles (49), (40), and (52) of Tax Dispute and Violation Committee Procedures, ZATCA requests acceptance of its petition and a ruling on its appeal as outlined in its Appellate Memorandum submitted before this Department regarding the contested



Decision. Accordingly, ZATCA requests acceptance of its petition and a ruling on its appeal against the Primary Decision for the reasons stated.

On Thursday, 27/01/1444 AH, corresponding to 25/08/2022, after reviewing ZATCA's petition and examining case file, the Department found that, as a general rule, final judicial rulings may not be reconsidered except in cases and under the conditions outlined in Article (200) of the Law of Civil Procedures, issued by Royal Decree No. (M/1) dated 22/01/1435 AH. It has been established by this Department that one of the conditions stated in the aforementioned Article applies, as the contested Decision did not rule on ZATCA's request in its appeal submitted to the Department on 01/11/1442 AH, corresponding to 10/06/2021, which was prior to closing of the pleadings on 04/11/1442 AH, corresponding to 13/06/2021. Therefore, this Department concludes to accept ZATCA's petition and decides to reopen the pleadings in ZATCA's appeal within (10) days from this date. The Department requests that both parties to the appeal submit their positions within that period. Accordingly, ZATCA submitted some documents.

On Wednesday, 18/02/1444 AH, corresponding to 14/09/2022 AD, and after reviewing and responding to appeal memoranda and examining case file documents and evidence, the Department has determined that the case is ready for resolution and a Decision on merits. Therefore, the Department decided to close the hearing and reserve the case for judgment.

Grounds:

Upon reviewing case documents and the petition submitted by ZATCA, the Department found that the petition meets the formal requirements for consideration, in accordance with the conditions stipulated in the relevant laws, regulations, and Decisions. Consequently, the petition is deemed formally acceptable, as it was submitted by an authorized party and within the legally prescribed time limit for such procedures.

On merits, it was established by the Department that ZATCA's assessment for the years 2001 to 2004 was conducted after the legally prescribed period for making amendments to Zakat Payer's Zakat declaration, which is set at five years from the final due date for Zakat Payer's submission of Zakat declaration for each year. These rules are in place to ensure the stability of transactions and to prevent leaving Zakat Payer's financial standings uncertain without a defined time frame that ensures their financial positions are not disrupted. This does not absolve Zakat Payer of any legal obligations if they are still liable, but it impacts the procedural right of ZATCA to reopen assessments after the legally prescribed period has passed. Therefore, the Department concludes that ZATCA's amendments were procedurally unsound, and the Department thus decides to annul ZATCA's assessments for the years 2001 to 2004 and overturn the ruling of the First Primary Zakat and Tax Committee in Riyadh regarding the outcome. Zakat Payer argued that this Department issued Decision No. (IR-2021-126) dated 22/06/2021, which was subject to appeal for the same years in which the Department decided to annul ZATCA's assessment due to expiration of the legally prescribed period for making amendments to Zakat Payer's declaration. It was established by this Department that its Decision No. (IR-2021-126) dated 22/06/2021 pertains to Zakat Payer's appeal on the same primary Decision that ZATCA is now appealing, and for the same years. Therefore, the Department concludes to amend that Decision by annulling the First Appellate Department's Decision No. (IR-2021-126) dated 22/06/2021 concerning the items for the years 2001 to 2004.

Regarding ZATCA's appeal on the item "withholding tax for the year 2005," ZATCA's appeal is based on its objection to Primary Committee's Decision on this item. ZATCA claims that it subjected the amounts paid to non-resident companies to withholding tax in accordance with Article (68) of the Tax law. After reviewing the appeal and examining



case file, it became evident that the dispute between the two parties centers on ZATCA's Decision to impose a withholding tax at a rate of 15% on installation services, while Zakat Payer argues that these are technical services and shall be taxed at a rate of 5%. Upon reviewing case file and the documents and arguments it contains, it became clear that ZATCA's appeal merely repeats what had already been raised before the Primary Committee. The Committee had reviewed the contracts submitted by Zakat Payer for the work performed by the three companies, which confirmed that the services provided were indeed technical services. Upon further examination, Zakat Payer's position was validated, and Primary Committee's conclusion was found to be correct. It was established that the services provided by the companies consisted of supervising the installation, executing and preparing the installation, and insuring the equipment. Therefore, after thoroughly reviewing case file, and since the Primary Committee had considered all aspects of the dispute, this Department finds no Grounds for revising or amending the Decision regarding this item in light of ZATCA's appeal. Consequently, the Department concludes that the arguments presented do not affect the outcome of the Decision under appeal. As a result, this Department decides to reject ZATCA's appeal and uphold Primary Committee's Decision on this matter.

Regarding ZATCA's appeal concerning the item "owner's current account balance for the year 2005," the appeal is based on objection to the Decision made by the Primary Committee on this item. ZATCA claims that its dispute with Zakat Payer arises from discrepancy between balances in the individual financial statements and the balances in the consolidated financial statements. Upon reviewing the appeal, it was found that ZATCA's assessment was based on the individual financial statements. However, the general principle is to use the consolidated financial statements when ownership is at 100%, which results in elimination of certain intercompany balances. Therefore, discrepancy between the consolidated and individual financial statements is not, in itself, a sufficient reason to reject the balances shown in the consolidated financial statements. It was established before the Primary Committee that Zakat Payer's declaration matched the consolidated financial statements, and ZATCA did not provide clarification or evidence explaining the source of difference between what Zakat Payer declared and what ZATCA assessed regarding this item. Since ZATCA did not provide any substantiating evidence for its claim, the Department concludes to reject ZATCA's appeal and uphold Primary Committee's Decision on this matter.

Regarding ZATCA's appeal concerning the items "notes payable for the year 2005," "long-term loans for the year 2005," and "credit bank balances for the year 2005," the appeal is based on objection to Primary Committee's Decision on these items. ZATCA claims that the committee did not clarify the basis or method by which it arrived at these balances added to the base, preventing ZATCA from reviewing and verifying Primary Committee's rationale. Upon reviewing the appeal and examining case file, this Department previously considered these same items during its review of Zakat Payer's appeal and decided to amend Primary Committee's Decision by confirming the validity of imposing Zakat on these items, based on what has been subject to a full lunar year, in accordance with Zakat Payer's declaration in the appeal submitted to this Department. Since ZATCA has not presented any new evidence or arguments regarding these items that require reconsideration or comment, this Department concludes to reject ZATCA's appeal and amend Primary Committee's Decision by confirming the validity of imposing Zakat on these items, based on what has been subject to a full lunar year, as declared by Zakat Payer in the appeal submitted to this Department.

Regarding ZATCA's appeal concerning the item "suppliers of spare parts and fixed assets for the year 2005," the appeal is based on objection to Primary Committee's Decision on this item. ZATCA claims that the item represents amounts owed to suppliers for financing



the purchase of fixed assets and spare parts, and these amounts were added to the base while deducting the corresponding value of the spare parts and fixed assets in accordance with Fatwa No. (22665). After reviewing the appeal and examining case file, it is clear that the dispute between the two parties centers on the amounts added to Zakat base for the "suppliers of spare parts and fixed assets." Upon reviewing case file and the arguments presented by both parties, and after examining the statement submitted by Zakat Payer, which includes a comparison of the loans that were subject to a full lunar year and added to Zakat base with the increase in fixed assets, and after reviewing Primary Committee's Decision, which covered the external financing sources added to Zakat base that were subject to a full lunar year in relation to the value of fixed assets or their equivalents, it was found that ZATCA did not provide a clear link between the disputed item and a specific amount deducted from Zakat base. Additionally, ZATCA did not respond to Zakat Payer's claim that there were debit balances representing advance payments to the same suppliers whose balances were added to the base by ZATCA. It became evident to this Department that Primary Committee's conclusion was correct, and the reasons upon which its Decision was based are sufficient to support the Decision. Therefore, this Department concludes to reject ZATCA's appeal and uphold Primary Committee's Decision in this matter.

Regarding ZATCA's appeal concerning the item "establishment expenses for the year 2005," the appeal is based on objection to Primary Committee's Decision on this item. ZATCA claims that it deducted the value of the establishment expenses and similar items according to the individual accounts of both (...) Poultry, (...) Restaurants, and the headquarters of (...) Transportation, which shall have matched the amounts listed in the consolidated financial statements. After reviewing the appeal and examining case file, it was found that ZATCA's assessment was based on the individual financial statements. However, the general principle is to use the consolidated financial statements when ownership is at 100%, which results in elimination of certain intercompany balances. Therefore, discrepancy between the balances in the consolidated financial statements and the individual financial statements is not, in itself, a sufficient reason to reject the balances presented in the consolidated financial statements. It was established before the Primary Committee that Zakat Payer's declaration matched the consolidated financial statements, and ZATCA did not provide clarification or explanation for the source of difference between what Zakat Payer declared and what was assessed by ZATCA regarding this item. Since ZATCA did not provide any evidence to support its claim, this Department concludes to reject ZATCA's appeal and uphold Primary Committee's Decision in this matter.

Regarding ZATCA's appeal concerning the item "projects under construction for the year 2005," the appeal is based on objection to Primary Committee's Decision on this item. ZATCA claims that it included the projects under construction for poultry activities as part of the fixed assets that were deducted from Zakat base. After reviewing the appeal and examining case file, it became clear to this Department that the Primary Committee accepted ZATCA's viewpoint regarding the disputed amount of SAR (234,202,217). As this Department has found no apparent interest for ZATCA in pursuing this appeal, and in accordance with Article (177) of the Law of Civil Procedures issued by Royal Decree No. (M/1) dated 22/01/1435 AH, this Department determines that the conditions for filing an appeal are not met. Therefore, the Department concludes to dismiss the Appeal.

Regarding ZATCA's appeal concerning the item "provisions for the year 2005," the appeal is based on objection to Primary Committee's Decision on this item. ZATCA claims that it deducted the utilized portion from the opening balance of the provisions and added the amount allocated during the year in accordance with Circular No. (2057/7). The provisions were handled based on what was shown in the individual financial statements



for certain activities and the results of the field inspection for the poultry and factory operations. After reviewing the appeal and examining case file, it was found that ZATCA's assessment was based on the individual financial statements. However, the general principle is to use the consolidated financial statements when ownership is at 100%, which results in elimination of certain intercompany balances. Therefore, the discrepancy between balances in the consolidated financial statements and the individual financial statements is not, in itself, a sufficient reason to reject the balances presented in the consolidated financial statements. It was established before the Primary Committee that Zakat Payer's declaration aligned with the consolidated financial statements, and ZATCA did not provide any clarification or explanation for the source of difference between what Zakat Payer declared and what ZATCA assessed regarding this item. Since ZATCA did not present any evidence to support its claim, this Department concludes to reject ZATCA's appeal and uphold Primary Committee's Decision on this matter.

In view of the foregoing, and in light of stated Grounds, the Department unanimously decided as follows:

Decision:

First: The petition submitted by ZATCA is formally accepted against the Decision of the First Appellate Department for Income Tax Violations and Disputes No. (IR-2021-126), issued in case No. (Z-1726-2018), concerning Zakat and tax assessment for the years 2001 to 2005.

Second: On Merits:

1- Annul ZATCA's assessment for the years 2001 to 2004 and overturn Decision of the First Primary Committee for Zakat and Tax in Riyadh, as well as the Decision of the First Appellate Department for Income Tax Violations and Disputes regarding their conclusions on this matter, in accordance with the reasons and rationale stated in this Decision.

2- Reject ZATCA's appeal regarding the item "withholding tax for the year 2005" and uphold Decision of the First Primary Committee for Zakat and Tax in Riyadh, in accordance with the reasons and rationale stated in this Decision.

3- Reject ZATCA's appeal regarding the item "owner's current account balance for the year 2005" and uphold the Decision of the First Primary Committee for Zakat and Tax in Riyadh, in accordance with the reasons and rationale stated in this Decision.

4- Reject ZATCA's appeal regarding the item "notes payable for the year 2005" and amend Decision of the First Primary Committee for Zakat and Tax in Riyadh by confirming the validity of imposing Zakat on this item for the amount subject to a full lunar year, as declared by Zakat Payer in the appeal submitted to this Department, in accordance with the reasons and rationale stated in this Decision.

5- Reject ZATCA's appeal regarding the item "long-term loans for the year 2005" and amend Decision of the First Primary Committee for Zakat and Tax in Riyadh by confirming the validity of imposing Zakat on this item for the amount subject to a full lunar year, as declared by Zakat Payer in the appeal submitted to this Department, in accordance with the reasons and rationale stated in this Decision.

6- Reject ZATCA's appeal regarding the item "credit bank balances for the year 2005" and amend Decision of the First Primary Committee for Zakat and Tax in Riyadh by confirming the validity of imposing Zakat on this item for the amount subject to a full lunar year, as declared by Zakat Payer in the appeal submitted to this Department, in accordance with the reasons and rationale stated in this Decision.

7- Reject ZATCA's appeal regarding the item "suppliers of spare parts and fixed assets for the year 2005" and uphold Decision of the First Primary Committee for Zakat and Tax in Riyadh, in accordance with the reasons and rationale stated in this Decision.



8- Reject ZATCA's appeal regarding the item "establishment expenses for the year 2005" and uphold Decision of the First Primary Committee for Zakat and Tax in Riyadh, in accordance with the reasons and rationale stated in this Decision.

9- Dismiss ZATCA's appeal regarding the item "projects under construction for the year 2005" and uphold Decision of the First Primary Committee for Zakat and Tax in Riyadh, in accordance with the reasons and rationale stated in this Decision.

10- Reject ZATCA's appeal regarding the item "provisions for the year 2005" and uphold Decision of the First Primary Committee for Zakat and Tax in Riyadh, in accordance with the reasons and rationale stated in this Decision.

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



Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes in Jeddah

Decision No. IR-2022-224
Case No. ZI-29755-2020

Key words:

Zakat and Tax – Accounts – Trade Payables – Financing Loans – Related Party Current Account – Foreign Partner – Completion of a Lunar Year.

Abstract

The Appellant (Zakat Payer) is requesting annulment of Primary Department's Decision No. (IZD-2020-189) regarding Zakat and tax assessment for the year 2017. Zakat Payer's appeal regarding the item "trade payables" is based on their objection to not limiting assessment to the Saudi partner's share that has completed a full lunar year and was declared by Zakat Payer. It was determined that the amount subject to completion of the full lunar year is SAR (4,101,355), and the Saudi partner's share of this is SAR (2,050,678), which aligns with Zakat Payer's declaration. Regarding the item "financing loans," Zakat Payer's appeal is based on their objection to addition of SAR (15,034,981) to Zakat base, claiming that the additions to assets were small and sporadic and were funded by operational cash flow, not requiring loans for financing. It was found that Zakat Payer repaid a total amount of loans during the year that exceeded the amount borrowed, and there is no direct link between the loans received during the year and the asset additions. The principle is that Zakat is not due on money that has not completed a full lunar year unless it is proven to have been used to finance deducted assets. Regarding the item "related party current account - foreign partner," Zakat Payer's appeal is based on the argument that the balance in dispute is merely support from the foreign partner to finance the company's operational activities, which are the basis for generating profits on which the foreign partner is taxed at a rate of 20% of the adjusted net profit. Therefore, including this item again in Zakat base would result in double-counting. It was found that the disputed amount was listed among Zakat Payer's liabilities in the balance sheet, and Zakat Payer did not contest completion of the lunar year on this amount, as acknowledged in the supplementary appeal, in which ZATCA took the lower balance. The outcome is: acceptance of Zakat Payer's appeal regarding the "trade payables" and "financing loans" items and rejection of Zakat Payer's appeal regarding the "related party current account - foreign partner" item.

Instruments:

- [Zakat Law promulgated by Royal Order No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

To consider the Appeal filed on ...//, corresponding to /.. /... by ..., with National ID No. (...) acting as Representative of the Appellant Company, under Power of Attorney No. (...), challenges Decision of the First Department for Determination of Income Tax



Violations and Disputes in Dammam, Decision No. (IZD-2020-189) issued in Case No. (ZI-10684-2019) related to zakat assessment for the year 2017 AD, filed by the Appellant against ZATCA. Primary Department's Decision in this matter was as follows:

In from:

Accept, in form, case of Appellant/(.....) Company, Commercial Register No. (...).

On Merits:

1- Reject the objection submitted by Plaintiff (Company...) regarding the trade payables for the year 2017.

2- Amend Defendant (ZATCA's) Decision concerning the financing loans for the year 2017.

3- Reject Plaintiff's objection regarding the related party current account (foreign partner). Since Taxpayer (..... Company) dissatisfied with this Decision; it submitted a statement of appeal summarized as follows:

Zakat Payer objects to Decision of Primary Department, claiming that regarding the item "trade payables," ZATCA was provided with an aging report for the trade payables, which confirms that the amount subject to a full lunar year is SAR (4,101,355), with the Saudi partner's share being SAR (2,050,678), as recognized in the declaration. As for the "financing loans" item, the amount of SAR (15,034,981) added to Zakat base is the subject of Appeal. Additions to the assets were minor and sporadic throughout the year, funded by Company's operational cash flow, with no need for loans to finance them. Furthermore, all additions were small improvements and minor assets, which did not require loans for financing, as they were funded through Company's operational activities and partner's current account, which had already been added to Zakat base. In addition, all the loans added during the year were short-term loans and letters of credit to finance Company's operational activities, not to finance fixed asset additions. Regarding the item "related party current account," the Primary Department did not take into account that the disputed balance is merely support from the foreign partner to fund Company's operational activities, which are the basis for generating the profit on which the foreign partner is taxed at 20% of the adjusted net profit. Therefore, including this item again in Zakat base constitutes double-counting. Accordingly, Zakat Payer requests annulment of Primary Department's Decision for the aforementioned reasons.

On Tuesday, 25/12/1442H, corresponding to 03/08/2021, the Department decided to hold an electronic pleading session for 10 days. A memorandum was received from ZATCA in response to Zakat Payer's appeal, summarizing ZATCA's stance that it stands by the correctness and validity of its actions, as well as the rationale and reasons stated in Primary Department's Decision. ZATCA also requested that the Department not accept any new requests from Zakat Payer based on Article (186) of the Law of Civil Procedures. Therefore, ZATCA requests rejection of Zakat Payer's appeal and upholding of Primary Department's Decision for the aforementioned reasons.

On Monday, 27/02/1443H, corresponding to 04/10/2021, after the Department reviewed Zakat Payer's appeal, it was found that the Appellate memorandum was dated 09/11/2020, while the General Secretariat of Zakat, Tax, and Customs Committees indicated that Zakat Payer submitted the appeal on 26/11/2020. The Department requested Zakat Payer to confirm the date appeal submission and to provide supporting evidence for it.

On Sunday, 23/09/1443 AH, corresponding to 24/04/2022 AD, regarding Appellant's objection on the "Related Parties Current Account" item (the foreign partner), the Department considered the matter of dispute. After reviewing the documents in case file, it was found that the Appellant is objecting to addition of the amount of (SAR 47,949,406). Upon further investigation by the Department into ZATCA's assessment and the financial statements, this amount was not found. Therefore, the Department requested the Appellant to clarify the source of the disputed amount in both ZATCA's assessment and



the financial statements and to provide evidence that it pertains to the foreign partner. within ten (10) days of date.

On Wednesday, 17/10/1443 AH, corresponding to 18/05/2022 AD, regarding Appellant's objection to the "Related Parties Current Account" item (the foreign partner), the Department considered the matter of dispute. After reviewing case file, it was found that the Appellant is objecting to addition of an amount of (SAR 47,949,406). Upon further investigation by the Department into ZATCA's assessment and the financial statements, this amount could not be found. Therefore, for the second time, the Department requested the Appellant to clarify the source of the disputed amount in both ZATCA's assessment and the financial statements and to provide proof that it pertains to the foreign partner. within ten (10) days of date.

On Monday, 29/10/1443 AH, corresponding to 30/05/2022 AD, regarding Appellant's objection to the "Related Parties Current Account" item (the foreign partner), the Department reviewed the dispute. After examining case file, it was found that the Appellant is objecting to addition of an amount of (SAR 47,949,406). Upon further investigation by the Department into ZATCA's assessment and the financial statements, this amount still could not be found. Therefore, for the third time, the Department requested the Appellant to clarify the source of the disputed amount in both ZATCA's assessment and the financial statements and to provide proof that it pertains to the foreign partner. within ten (10) days of date.

On Sunday, 20/11/1443 AH corresponding to 19/06/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds:

After reviewing case documents and the appeal memorandum submitted by Zakat Payer, the Department determined that the conditions for accepting the appeal, in terms of form, were satisfied according to the relevant laws, regulations, and Decisions. As a result, the appeal is deemed formally admissible, having been filed by an authorized party and within the required legal timeframe.

On merits, Zakat Payer's appeal pertains to the (trade payables) item. Zakat Payer objects to ZATCA's refusal to limit the assessment to the Saudi partner's share, which had completed a full year and was acknowledged by Zakat Payer. On the other hand, ZATCA asserts the accuracy and soundness of its actions and requests that Zakat Payer's appeal be dismissed, supporting the original Decision of the Primary Department. Upon Department's consideration of the dispute and review of case documents, it was found that the amount that had completed a full year totaled SAR (4,101,355), with the Saudi partner's share amounting to SAR (2,050,678), which aligns with what Zakat Payer acknowledged. Therefore, the Department concludes that Zakat Payer's appeal shall be accepted, and Primary Department's Decision regarding this item shall be overturned.

As for Zakat Payer's appeal regarding the (financing loans) item, Zakat Payer's objection is based on the addition of SAR (15,034,981) to the zakat base. Zakat Payer claims that the additions to assets consist of various small amounts funded by cash generated from operating activities and did not require loans for financing. Meanwhile, ZATCA insists on the correctness and validity of its procedure and requests rejection of Zakat Payer's appeal and affirmation of the Primary Department's Decision. Upon the Department's review of the dispute and case documents, it was found that Zakat Payer's appeal focuses on the addition of SAR (15,034,981) to the zakat base, which ZATCA claimed was used to finance assets deducted from the zakat base. Based on the cash flow statement regarding the



added assets, it was found that Zakat Payer had liquidity at the beginning of the year exceeding this amount. It was also found that Zakat Payer repaid a portion of its loans during the year in question, with an amount exceeding the borrowed sum. Since there is no direct link between the loans received during the year and the asset additions, and as the default rule is that zakat is not due on funds that have not completed a full year unless it is proven they were used to finance deducted assets, and since ZATCA did not provide evidence that these amounts were used to finance the deducted assets, the Department concludes that Zakat Payer's appeal shall be accepted, and Primary Department's Decision regarding this item shall be overturned.

Regarding Zakat Payer's appeal concerning the item (Related Parties Current Account - Foreign Partner), Zakat Payer's appeal is based on the claim that the disputed balance is merely support from the foreign partner to fund company's operational activities, which is the basis for generating profit. The foreign partner is taxed on this profit at a rate of 20% of the adjusted net profit, meaning that including this item again within the zakat base would result in double counting. ZATCA, however, insists on the correctness and validity of its procedure and requests rejection of Zakat Payer's appeal and affirmation of Primary Department's Decision. Upon Department's consideration of the dispute and review of case documents, it became evident that Zakat Payer is appealing the addition of SAR (47,949,406), which he claims ZATCA considered as the Saudi partner's share of this amount, while Zakat Payer argues that the entire funding was offered the foreign partner. Upon reviewing Zakat Payer's financial statements, the Department found that the disputed amount was listed among Zakat Payer's liabilities in the balance sheet. Zakat Payer did not dispute that this amount had completed a full year, as acknowledged in his supplemental appeal memorandum, where he stated that ZATCA had taken the lower balance, which reflected the opening balance after subtracting the debits. Additionally, any funding received by Zakat Payer, regardless of its source, is included in zakat base in accordance with relevant fatwas, provided that it has completed a full year or has been used to finance assets deducted from the base. As a result, the Department concludes that Zakat Payer's appeal shall be rejected, and Primary Department's Decision regarding this item shall be upheld.

Based on the foregoing and considering the aforementioned reasons, the Department unanimously decided as follows:

Decision:

First: Accept, in form, the Appeal submitted by Appellant/..... Company, Commercial Register No. (...), TIN (...), against Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam , No. (IZD-2020-189), issued regarding case No. (ZI-10684-2019), related to Zakat assessment for the year 2017.

Second: On Merits:

- 1- Accept Zakat Payer's appeal regarding the item (trade payables) and overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the reasons and justifications stated in this Decision.
- 2- Accept Zakat Payer's appeal regarding the item (financing loans) and overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the reasons and justifications stated in this Decision.
- 3- Reject Zakat Payer's appeal regarding the item (Related Parties Current Account - Foreign Partner) and uphold Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the reasons and justifications stated in this Decision.



Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-237
Case No. ZI-33666-2021

Key words:

Zakat and Tax - Accounts - Exempt Income for Zakat Purposes - Social Insurance Differences - Investments in Local Company Shares - Adjusted Carried Forward Losses for Saudi Shareholders

Abstract

The Appellant (Zakat Payer/ ZATCA) seeks to cancel Primary Department's Decision No. (IFR-2020-269), regarding the tax zakat assessment for the years 2013 and 2014. Zakat Payer's appeal regarding the item (Exempt Income for Zakat Purposes) is based on objecting to Primary Department's approval of ZATCA's action not to deduct the Saudi shareholders' portion from zakat base. The appeal also includes the items (Social Insurance Differences for the year 2014), (Investments in Local Company Shares), and (Adjusted Carried Forward Losses for Saudi Shareholders), objecting to Department's approval of ZATCA's Decision not to deduct the full amounts of these items from zakat base. Regarding ZATCA's appeal on the item (Statutory Deposit for the years 2013 and 2014), they are requesting inclusion of the statutory deposit in zakat base. As for the item (Delay fine), ZATCA argues that Department's condition of intent for imposing the fine has no legal basis. The Department found that, concerning the item (Exempt Income for Zakat Purposes), zakat regulations do not provide any exemption for capital gains resulting from disposal of securities traded on the Saudi stock market. Regarding the item (Social Insurance Differences for 2014), the amount reported on Zakat Payer's filing was less than what was indicated in the Social Insurance Certificate. As for the item (Investments in Local Company Shares), there was significant buying and selling activity related to the disputed item. Regarding the item (Adjusted Carried Forward Losses for Saudi Shareholders), the adjustments affected the calculation of the retained earnings balance. For the item (Statutory Deposit for 2013 and 2014), the statutory deposit is considered a form of guarantee required by the official authority overseeing the activity in exchange for client rights. Regarding the item (Delay fine), the Department accepted Zakat Payer's appeal on the item (Social Insurance Differences for 2014). As a result, the appeal is accepted regarding the items (Social Insurance Differences) and (Adjusted Carried Forward Losses for Saudi Shareholders), and all other requests are rejected.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Article \(77/A\) of Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
 - https://zatca.gov.sa/ar/HelpCenter/guidelines/Documents/the_Implementing_Regulations_of_Income_Tax_Law.pdf **Paragraph (3) of Article (67) of the Implementing Regulations of Income Tax Law, issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH.**
- [Paragraph \(6/ B\) of Article \(4\) of the Implementing Regulations of Income Tax Law issued by Minister of Finance Decision No. \(2082\) dated 1/6/1438 AH](#)



Facts:

To consider the Appeal submitted on .../.../..., corresponding to .../.../..., by/ ... (National ID No. (...), in his capacity as Representative of the Appellant Company (by virtue of Power of Attorney No. (...)), and the Appeal submitted on .../.../..., corresponding to .../.../..., by/ ZATCA against Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, Decision No. (IFR-2020-269), issued in Case No. (ZI-9969-2019), regarding Zakat assessment for the years 12013 and 2014 AD, filed by the Appellant against ZATCA, regarding which the Primary Department ruled as follows:

First: Declare that the dispute between the PlaintiffCompany (TIN ...) with the Defendant, ZATCA, regarding the tax-related aspect of the exempt income for the years 2013 and 2014, and reject Plaintiff's objection to Defendant's Decision concerning the zakat-related aspect of the exempt income for the years 2013 and 2014.

Second: Dismiss the objection of the Plaintiff.....Company (TIN ...), to Decision of the Defendant/ ZATCA, regarding the item of Social Insurance charged with an excess amount for the year 2014.

Third: Dismiss the objection of the Plaintiff.....Company (TIN...) on the Decision of the Defendant/ZATCA, related to the item of investments in the shares of local companies for the years 2013 and 2014.

Fourth: Annul Decision of Defendant/ ZATCA against Plaintiff/(.....) Company (TIN...) related to the item of the statutory deposit for the years 2013 and 2014.

Fifth: Declare that the dispute between the PlaintiffCompany (TIN...) with the Defendant/ZATCA, regarding deduction from the doubtful debt provision for the year 2014.

Sixth: Dismiss the objection of the Plaintiff.....Company (TIN ...) regarding the Decision of Defendant/ZATCA, concerning the carried forward losses for Saudi shareholders for the years 2013 and 2014.

Seventh: Annul Decision of Defendant/ ZATCA against Plaintiff/(.....) Company (TIN...) related to the delay fines item in question.

Since both parties to the Case dissatisfied with this Decision; they submitted a statement of appeal summarized as follows:

As for Zakat Payer's appeal against the Primary Department's Decision in question, it included the following: Regarding the item (Exempt Income for Zakat Purposes), Zakat Payer claims that Saudi shareholders' portion of the capital gains from disposal of securities traded on the Saudi stock market shall be deducted from zakat base, as it is considered exempt income for the years 2013 and 2014. Zakat Payer argues that the Implementing Regulations of Income Tax Law exempt capital gains from tax, and there is no legal provision preventing their deduction from zakat base. As for the item (Social Insurance Differences for 2014), Zakat Payer claims that addition of the social insurance differences to the net book profit for 2014, amounting to SAR (1,223,339), (later reduced to SAR 450,437), shall be canceled. Zakat Payer asserts that the amount deducted in the return, SAR (2,085,167), is less than the amount listed in the Social Insurance Certificate, SAR (2,639,898). The reason for the difference between the certificate and the accounts is that the certificate reflects the amount actually paid, while the accounts are recorded on an accrual basis. Regarding the item (Investments in Local Company Shares), Zakat Payer claims that the investments shall be deducted from zakat base for 2013 and 2014, as they are long-term investments in shares listed on the Saudi stock market. These investments were classified in the financial statements as available-for-sale financial assets in accordance with accounting standards. Based on the attached investment movements, it is clear that these are long-term investments. Concerning the item (Adjusted Carried



Forward Losses for Saudi Shareholders), Zakat Payer argues that carried forward losses shall be deducted based on what is stated in the financial statements, as ZATCA added retained earnings shown in the financial statements. Therefore, the same policy shall be applied to carried forward losses. In light of the above, Zakat Payer requests annulment of Primary Department's Decision regarding the appealed items for the aforementioned reasons.

As the Decision was not accepted by ZATCA, it filed its appeal against the contested Decision, as detailed in the following statement of appeal:

Regarding the item (Statutory Deposit for the years 2013 and 2014), ZATCA is requesting addition of the statutory deposit to the zakat base in accordance with paragraph (Second/B) of Article (4) of the Implementing Regulations for Zakat Collection, issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, which applies to the two years in dispute. As for the item (Delay fine), ZATCA is requesting imposition of the delay fine, as the fine shall be imposed as of tax due date, which is the statutory filing deadline, in accordance with paragraph (A) of Article (77) of the Income Tax Law and paragraph (3) of Article (67) of Implementing Regulations thereof. ZATCA further argues that Primary Department's requirement of intent for imposing the fine has no legal basis, as this interpretation would hinder the application of the law and its regulations. Therefore, ZATCA upholds the validity and correctness of its procedure, and requests that its actions be affirmed and Primary Department's Decision on the item under appeal be overturned for the aforementioned reasons.

The Department decided to reopen the hearing, and ZATCA submitted a response memorandum dated 06/06/1442 AH, corresponding to 19/01/2021 AD, addressing Zakat Payer's appeal. The memorandum can be summarized as follows: ZATCA insists on the validity and correctness of its procedures. ZATCA explains that regarding the item (Exempt Income for Zakat Purposes), it did not accept Zakat Payer's objection due to absence of any provision exempting profits from zakat, based on Article (1) of Zakat Collection Regulations issued in 1438 AH. As for the item (Social Insurance Differences for 2014), after studying and reviewing the return, it was found that the social insurance charged was SAR (2,085,167), while the total difference and the amount to be added back to the adjusted net profit was SAR (450,437), as indicated in the table attached to case file. Regarding the item (Investments in Local Company Shares), after reviewing the financial statements, it was determined that these amounts represent investments in local shares acquired for trading purposes. ZATCA's actions are based on Fatwa No. (19382) of 1418 AH and Article (4) of Zakat Collection Regulations issued in 1438 AH. As for the item (Adjusted Carried Forward Losses for Saudi Shareholders), ZATCA carried forward the losses according to its assessments, and thus, ZATCA's procedure is correct based on Clause (Second), Paragraph (9) of the Implementing Regulations for Zakat Collection. Accordingly, ZATCA insists on the validity and correctness of its procedures and requests rejection of Zakat Payer's appeal and affirmation of Primary Department's Decision regarding the items under Zakat Payer's appeal for the aforementioned reasons. Zakat Payer also submitted a response memorandum regarding ZATCA's appeal, in which they maintained the validity and correctness of their actions and requested rejection of the appeal and affirmation of Primary Department's Decision on the items under ZATCA's appeal.

On Wednesday, 07/03/1443 AH, corresponding to 13/10/2021 AD, the Department decided to hold an electronic hearing for a period of 10 days, during which Zakat Payer submitted several documents.

On Sunday, 20/11/1443 AH, corresponding to 19/06/2022 AD, regarding Zakat Payer's appeal on the item of Adjusted Carried Forward Losses for Saudi Shareholders, the Department requested ZATCA to specify the adjustments made to the losses and whether



they related to temporary or permanent differences between the zakat base and the accounting income, to be submitted within 10 days of that date. ZATCA then submitted a supplementary memorandum.

The Department, after reviewing the appeal memoranda and the responses, and after examining the documents and papers contained in the case file, decided that the case was ready for determination and the issuance of a ruling on its merits on Thursday 01/12/1443 AH corresponding to 30/06/2022 AD. Accordingly, the Department decided to close the pleadings and reserve the case for a final Decision.

Grounds:

Upon reviewing Case documents and statement of appeal submitted by Zakat Payer, the Department found that conditions of appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations, and Decisions. Therefore, the Appeal request was accepted in form for being submitted by a person with legal capacity and within the statutory prescribed period.

Regarding the subject matter, specifically Zakat Payer's appeal on the item (Exempt Income for Zakat Purposes), Zakat Payer's appeal is based on objecting to Primary Department's approval of ZATCA's Decision not to deduct the Saudi shareholders' portion from zakat base. Zakat Payer argues that the Implementing Regulations of Income Tax Law exempt capital gains from tax, and there is no legal provision preventing their deduction from the zakat base. Meanwhile, ZATCA maintains the validity and correctness of its actions and requests rejection of Zakat Payer's appeal and affirmation of Primary Department's Decision. Upon reviewing the dispute and examining case documents, the Department found that the zakat regulations do not provide any exemption for capital gains resulting from disposal of securities traded on the Saudi stock market. Therefore, the Department concludes to reject Zakat Payer's appeal and uphold Primary Department's Decision regarding this item.

As for Zakat Payer's appeal on the item (Social Insurance Differences for 2014), the appeal is based on objecting to Primary Department's approval of ZATCA's Decision not to deduct the full amount of this item from zakat base. Zakat Payer claims that the difference between the Social Insurance Certificate and the accounts is due to the certificate reflecting the actual amount paid, while the accounts are recorded on an accrual basis. Meanwhile, ZATCA maintains the validity and correctness of its actions and requests rejection of Zakat Payer's appeal and affirmation of Primary Department's Decision. Upon reviewing the subject of dispute and examining case documents, the Department noted that the General Organization for Social Insurance (GOSI) certificate is considered a piece of evidence issued by a third party and is used to verify the accuracy of salaries, wages, and related items charged to the accounts. Since the dispute is document-based, and after reviewing GOSI certificate, it was found that the total contributions amounted to SAR (2,639,898), whereas the amount charged in the return was less than the amount stated in GOSI certificate. Therefore, the Department concludes to accept Zakat Payer's appeal and overturn Primary Department's Decision regarding this item.

Regarding Zakat Payer's appeal concerning the item (Investments in Local Company Shares), Zakat Payer's appeal is based on objecting to Primary Department's approval of ZATCA's Decision not to deduct the amount of this item from the zakat base. Zakat Payer claims that these are long-term investments in shares listed on the Saudi stock market and were classified in the financial statements as available-for-sale financial assets in accordance with accounting standards. Meanwhile, ZATCA maintains the validity and correctness of its actions and requests rejection of Zakat Payer's appeal and affirmation of Primary Department's Decision. Upon Department's review of the dispute and examination of case documents, and after reviewing the financial statements, it was found



that there was significant buying and selling activity concerning the disputed item, involving substantial amounts. This serves as evidence that these shares were intended for trading, and therefore, shall not be deducted from zakat base in accordance with applicable fatwas. Consequently, the Department concludes to reject Zakat Payer's appeal and uphold Primary Department's Decision regarding this item.

Regarding Zakat Payer's appeal concerning the item (Adjusted Carried Forward Losses for Saudi Shareholders), Zakat Payer's appeal is based on objecting to Primary Department's approval of ZATCA's Decision not to deduct this item from zakat base. Zakat Payer argues that ZATCA adds the retained earnings shown in the financial statements, and thus the same policy shall be applied to carried forward losses. Meanwhile, ZATCA maintains the validity and correctness of its actions and requests rejection of Zakat Payer's appeal and affirmation of Primary Department's Decision. Upon reviewing the subject of dispute and examining case documents, as well as considering ZATCA's response regarding the items that adjusted the profits of previous years and affected the balance of retained earnings, it was found that these adjustments include items that impact calculation of zakat base in a specific year, resulting in a permanent difference between the net accounting profits or losses and the net profits or losses calculated for zakat purposes, such as non-deductible expenses. Additionally, these adjustments include items whose impact extends to subsequent years and are reversed in those later financial years, creating a temporary difference between the net accounting profits or losses and the net profits or losses calculated for zakat purposes, such as depreciation expenses and end-of-service provisions. Since these adjustments, which result in a permanent difference in the calculation of net profits or losses, represent an actual outflow of funds from Zakat Payer's assets and a genuine reduction in zakat assets, the Department concludes that the effect of these adjustments shall not extend to subsequent years. Instead, their impact shall be confined to the year in which the profit was adjusted, as is the case with non-deductible expenses. As for the adjustments whose impact extends to subsequent years and are reversed in those later years, the Department concludes that these adjustments affect calculation of the retained earnings balance, as is the case with adjustments related to depreciation expenses and end-of-service provisions. Accordingly, the Department concludes to amend Primary Department's Decision by calculating the carried forward losses according to their balance as reflected in the financial statements, after adjusting for the depreciation differences, end-of-service provision, and the item (maintenance expenses exceeding 4%).

Regarding ZATCA's appeal concerning the item (Statutory Deposit for the years 2013 and 2014), ZATCA's appeal is based on its request to add the statutory deposit to zakat base in accordance with Paragraph (Second/B) of Article (4) of the Implementing Regulations for Zakat Collection, issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, which applies to the two years in question. Zakat Payer, on the other hand, insists on the correctness and validity of Primary Department's Decision and requests rejection of ZATCA's appeal and affirmation of Primary Department's Decision. Upon Department's review of the dispute and examination of case documents, and after considering the reasons for ZATCA's appeal regarding this item, it was found that the statutory deposit is a form of guarantee required by the official authority overseeing the activity to protect the rights of customers. It is also considered a mandatory, non-voluntary obligation, which means that the company cannot have control over the deposit amounts except in the event of liquidation. This is because company's access to the funds is restricted by ZATCA supervising its activities, making the funds effectively withheld by order of that authority, as it is a necessary requirement for issuing the license to operate the business. The regulatory provisions governing cooperative insurance activities stipulate that the supervisory authority's mandated percentage of the capital to be withheld is entitled to the



returns generated from these amounts. Consequently, it must be concluded that the statutory deposit amount shall not be added to Zakat Payer's zakat base. Therefore, the Department concludes to reject ZATCA's appeal and uphold Primary Department's Decision regarding this item.

Regarding ZATCA's appeal on the item (Delay fine), ZATCA's appeal is based on the claim that Primary Department's requirement of intent for imposing the fine has no legal basis. ZATCA argues that the fine is imposed from the tax due date, which is the statutory deadline for filing the return, in accordance with paragraph (A) of Article (77) of the Income Tax Law and paragraph (3) of Article (67) of Implementing Regulations thereof. Meanwhile, Zakat Payer insists on the correctness and validity of Primary Department's Decision and requests rejection of ZATCA's appeal and affirmation of Department's Decision. Upon Department's consideration of the dispute and examination of case documents, the Department accepted Zakat Payer's appeal regarding the item (Social Insurance Differences for 2014), which has an impact on the tax base. Since there were no other items in Primary Department's Decision that were rejected and had a tax impact, the Department concludes that the fine is nullified due to nullification of its underlying cause. Therefore, the Department concludes to reject ZATCA's appeal regarding this item.

In view of the foregoing, and in light of stated Grounds, the Department unanimously decided as follows:

Decision:

First: Accept, in form, appeal submitted by Zakat Payer/..... company, Commercial Register No. (.....), TIN (.....), and the appeal submitted by ZATCA, against Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, No. (IFR-2020-269), issued in case number (ZI-9969-2019), related to zakat assessment for the years 2013 and 2014.

Second: On Merits:

- 1- Reject Zakat Payer's appeal regarding the item (Exempt Income for Zakat Purposes), and affirm Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the reasons and justifications stated in this Decision.
- 2- Accept Zakat Payer's appeal regarding the item (Social Insurance Differences for 2014), and overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the reasons and justifications stated in this Decision.
- 3- Reject Zakat Payer's appeal regarding the item (Investments in Local Company Shares), and uphold Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the reasons and justifications stated in this Decision.
- 4- Accept Zakat Payer's appeal regarding the item (Adjusted Carried Forward Losses for Saudi Shareholders), and amend Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh to calculate the carried forward losses according to their balance shown in the financial statements, after adjustments for depreciation differences, end-of-service provision, and maintenance expenses exceeding (4%), in accordance with the reasons and justifications stated in this Decision.
- 5- Reject ZATCA's appeal regarding the item (Statutory Deposit for the years 2013 and 2014), and uphold Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the reasons and justifications stated in this Decision.



6- Reject ZATCA's appeal regarding the item (Delay fine), and uphold Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the reasons and justifications stated in this Decision.



The Appellate Committee for Income Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-300
Case No. Z-16904-2020

Key words:

Zakat and Tax - Accounts - Assessment after the statutory period - Non-compliance of ZATCA's assessment with formal requirements - Bad debts - Maintenance and repair expenses - Import differences

Abstract

The appellant (Zakat Payer) is requesting cancellation of the Primary Department's Decision No. (IZD-2020-39), concerning zakat and tax assessment for the years 2008 through 2011. Zakat Payer's appeal regarding the item (Maintenance and repair expenses exceeding 4% of total fixed assets for 2010 and 2011) and the item (Import differences for 2010 and 2011) is based on objections to Primary Department's ruling on these items, as well as ZATCA's assessment related to the zakat and tax assessment for 2008 and 2009. The Department found that ZATCA's assessment for 2008 and 2009 was made after expiration of the statutory period for ZATCA to conduct or amend the assessment. Regarding the item (Maintenance and repair expenses exceeding 4% of total fixed assets for 2010 and 2011), the Department determined that ZATCA's assessment was procedurally flawed. As for the item (Import differences for 2010 and 2011), Zakat Payer did not provide sufficient evidence to support their claim. As a result, ZATCA's assessments for 2008 and 2009 and the first Department's Decision are canceled, and Zakat Payer's appeal regarding the item (Import differences for 2010 and 2011) is rejected.

Instruments:

- [Zakat Law promulgated by Royal Decree No. \(17/28/577\) dated 14/03/1376 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

To address the appeal submitted on../../., corresponding to../../., by (...), National ID No. (...) acting as Representative of the Appellant Company, under Power of Attorney No. (...), challenging Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, Decision No. (IZD-2020-39) issued in Case No. (ZI-5-2018) related to zakat assessment for the years 2008 to 2011, filed by the Appellant against ZATCA. Primary Department's Decision in this matter was as follows:

First: In from:

- Accept, in form, the case filed by (...) Company, C. R. No. (...) No. (...).
- Reject, in form, Plaintiff's objection regarding the item "Bad debts for the fiscal year ending in 2009" due to submission after expiration of the statutory period.
- Reject, in form, Plaintiff's objection regarding the item "Maintenance and repair expenses exceeding 4% of total fixed assets for 2009 and 2010" due to submission after expiration of the statutory period.



Second: On Merits:

- Reject Plaintiff's objection regarding import differences for the years ending in 2009, 2010, and 2011.
- Reject Plaintiff's objection regarding doubtful debts for the fiscal year ending in 2009.
- Reject Plaintiff's objection regarding fines and penalties for the year ending in 2009.

As this Decision was not accepted by Zakat Payer (...), they submitted an appeal memorandum, which included the following summary:

Zakat Payer objects to Decision of the Primary Department under appeal, claiming the following: Regarding the items (Bad debts for the fiscal year ending in 2009) and (Maintenance and repair expenses exceeding 4% of total fixed assets for 2009 and 2010), Zakat Payer requests that the objections be considered on substantive Grounds and that the procedural aspect be disregarded. For the item (Import differences for the years ending in 2009, 2010, and 2011), Zakat Payer asserts that the information submitted in their tax returns is correct. The differences in imports are due to local purchases, goods in transit, and other expenses mistakenly recorded as foreign purchases. Additionally, the differences arise from discrepancies between the dates of purchase recording in company's accounting books and the actual customs clearance dates. Regarding the item (Doubtful debts for the fiscal year 2009), Zakat Payer claims that an unintentional error was made in reporting the movement of the doubtful debt provision in the letter sent to ZATCA. The amount recorded in the 2009 financial statements was SAR (253,472), while ZATCA added the year-end balance of SAR (403,591). This resulted in the provision being added twice: once under the item "Doubtful Debts Provision" and again under the item "Bad Debts." For the item (Fines and Penalties for 2009), Zakat Payer claims that these fines and penalties are compensation paid to clients due to breaches of certain contractual terms, which are permissible under the Zakat regulations. As a result, Zakat Payer requests annulment of Primary Department's Decision under appeal for the reasons mentioned above.

The Department decided to reopen the hearing, and a response memorandum was submitted by ZATCA, dated 02/12/1441 AH, corresponding to 22/07/2020 AD, in reply to Zakat Payer's appeal. The memorandum summarized ZATCA's position, reaffirming the arguments previously presented before the Primary Department and emphasizing absence of an appeal memorandum from Zakat Payer. Accordingly, ZATCA maintains the validity and correctness of its procedures and requests rejection of Zakat Payer's appeal and affirmation of Primary Department's Decision for the reasons previously mentioned.

On Sunday, 02/12/1441 AH, corresponding to 22/07/2020 AD, the Department decided to hold an electronic pleading session for a period of (10) days, so the period passed without the submission of an addendum by the parties to the appeal.

And on Thursday, 05/02/1444 AH, corresponding to 01/09/2022 AD, and after reviewing and responding to appeal memoranda and examining case file documents and evidence, the Department has determined that the case is ready for resolution and a Decision on merits. Therefore, the Department decided to close the hearing and reserve the case for judgment.

Grounds:

Having taken cognizance of Case documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been met in form in accordance with conditions stipulated in relevant laws, regulations, and Decisions. Therefore, the appeal is accepted in form for being filed by a party having capacity and within the prescribed statutory period.

On merits, it was found that ZATCA's assessment for the years 2008 and 2009 occurred after the statutory period allowed for making or amending the assessment. After reviewing



case file and documents, and given that the zakat and tax returns for 2008 and 2009 were governed by the Income Tax Law and the instructions regulating zakat collection at the time, which clearly specified the procedures for conducting assessments, it is evident that the regulations explicitly state that ZATCA's right to assess is limited to five years from the end of the due date for submitting the tax return. If this period passes without any action from ZATCA to amend the return, Zakat Payer's return becomes final unless ZATCA exercises its right to amend within this period or proves the intent of tax evasion through submission of an incomplete return within ten years from the due date. The stability of legal and financial positions is a fundamental goal emphasized by the Law, which limits ZATCA's ability to reopen assessments beyond the five-year period unless there is tax evasion. In such cases, ZATCA's right to reassess is further limited to a period of no more than ten years. Conducting assessments without adhering to the regulations set forth by the legislator, as previously outlined, does not fulfill the objective of ensuring stability of Zakat Payer's financial and legal positions. Therefore, the Department concludes that ZATCA does not have the right to conduct assessments for the years 2008 and 2009. Consequently, this Department rules to cancel ZATCA's assessment for the years 2008 and 2009 and overturn Primary Department's Decision on this matter.

Regarding Zakat Payer's appeal concerning the item (Maintenance and Repair Expenses exceeding 4% of total fixed assets for the years 2010 and 2011), the appeal is based on objecting to Primary Department's Decision on this item, requesting that the procedural aspects be set aside and the objection be considered on substantive Grounds. Meanwhile, ZATCA maintains the validity and correctness of its procedures and requests rejection of Zakat Payer's appeal and affirmation of Primary Department's Decision. Upon Department's consideration of the dispute, after reviewing case file and examining the assessment Decisions issued by ZATCA for the years in question, it became apparent that these assessments did not meet the formal requirements set forth by the regulations. Specifically, the assessments did not include the reasons for adjustments, which would have allowed Zakat Payer to provide a well-founded objection. It is essential for ZATCA to explain the reasons behind adjustments so that Zakat Payer can either accept or challenge them. As this was not done, the Department concludes that ZATCA's assessment was procedurally flawed. The fact that the Law provides protection against challenging ZATCA's assessment Decision after expiration of the legally specified objection periods does not undermine this conclusion. Such protection is applicable only if the assessments are valid and meet the formal requirements established by law. Accordingly, this Department concludes to overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the case to the Department for substantive consideration.

Regarding Zakat Payer's appeal on the item (Import Differences for the years 2010 and 2011), the appeal is based on objecting to Primary Department's Decision on this item. Zakat Payer claims that the information in his return is accurate and that the import differences are due to expenses mistakenly recorded as foreign purchases, resulting from discrepancies between the dates of purchase entries in the accounting records and the actual customs clearance dates. Meanwhile, ZATCA maintains the validity and correctness of its procedures and requests rejection of Zakat Payer's appeal and affirmation of Primary Department's Decision. Upon considering the subject of dispute and reviewing Zakat Payer's appeal, along with examining case file, and since the dispute is document-based, and Zakat Payer has not provided sufficient evidence to support his claim or clarify the discrepancies in question, the Department concludes to reject Zakat Payer's appeal and uphold Primary Department's Decision on this matter.

Decision:



First: Accept, in form, the appeal submitted by Zakat Payer (...) with Commercial Register No. (...), TIN (...), against Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, No. (IZD-2020-39), issued regarding Case No. (ZI-5-2018), related to the zakat and tax assessment for the years 2008 to 2011.

Second: On Merits:

1- Cancel ZATCA's assessments for the years 2008 and 2009, and overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam based on the conclusions outlined in this Decision.

2- Annul Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam regarding the item (Maintenance and Repair Expenses exceeding 4% of total fixed assets for the years 2010 and 2011), and remand the case to the Department for substantive consideration, in accordance with the reasons and justifications stated in this Decision.

3- Reject Zakat Payer's appeal regarding the item (Import Differences for the years 2010 and 2011) and affirm Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the reasons and justifications stated in this Decision.

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



Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-312
Case No. ZI-16408-2020

Key words:

Zakat and Tax - Accounts - Salary differences exceeding the social insurance certificate - Customs import differences - Estimated import profits - Trademarks

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IZJ-2020-24) regarding zakat assessment for years from 2010 to 2013. Zakat Payer's appeal centers on rejection by the Primary Department of his objection to the tax assessment on procedural Grounds, as well as the items (Salary Differences Charged to Accounts), (Customs Import Differences), and (Zakat Assessment Differences). Zakat Payer's appeal challenges Department's Decision on these items. Regarding the appeal on the item (Trademarks), Zakat Payer objects to Department's disregard of this item. The Department found, regarding the tax assessment, that there were valid reasons preventing Zakat Payer from filing his objection in accordance with the regulations. As for the item (Salary Differences Charged to Accounts), Zakat Payer did not provide sufficient evidence to substantiate the expenses in dispute. Regarding the item (Customs Import Differences), Zakat Payer submitted proof of having paid customs fees for 2013 amounting to SAR (1,646,494). Concerning the item (Zakat Assessment Differences), the Department determined that the dispute had been resolved, as ZATCA accepted Zakat Payer's viewpoint. Regarding the item (Trademarks), it was found that the Decision under appeal did not address Zakat Payer's objection to this item, which means that the dispute remains unresolved, as the ruling did not address this matter. As a result, the Decision of the First Department is overturned, and Zakat Payer's appeal is rejected regarding the items (Salary Differences Charged to Accounts) and (Customs Import Differences for the years 2010 and 2012). However, Zakat Payer's appeal is accepted regarding the items (Customs Imports for 2013), (Zakat Assessment Differences), and (Trademarks).

Instruments:

- Article (4) of [Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- Article (66/B) of [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH](#)
 - https://zatca.gov.sa/ar/HelpCenter/guidelines/Documents/the_Implementing_Regulations_of_Income_Tax_Law.pdf Paragraph (1) of Article (60) of the Implementing Regulations of Income Tax Law, issued by Minister of Finance Decision No. (1535) dated 11/06/1425 AH.

Facts:

The facts of this case revolve around the appeal submitted on .././...AH, corresponding to .././...AD, by (...), holding National ID No. (...), acting as an agent for the Appellant



Company under Power of Attorney No. (...), against Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, No. (IZJ-2020-24), issued regarding Case No. (ZI-11-2018). The case relates to zakat and tax assessment for the years 2010 through 2013, filed by the Appellant against ZATCA. First Department's Decision ruled as follows:

First: In form:

- 1- Reject objection of the Plaintiff (..... Company), Commercial Register No. (...), regarding the tax assessment for the years 2010 to 2013, on procedural Grounds.
- 2- Accept objection of the Plaintiff (..... Company), Commercial Register No. (...), regarding the zakat assessment for the years 2010 to 2013, on procedural Grounds.

Second: On merits:

- 1- It is established that dispute regarding the item of estimated import profits for (...) establishment for the years 2010 to 2013 has been resolved, with the Defendant accepting Plaintiff's (..... Company) viewpoint on this item.
- 2- Accept objection of the Plaintiff (..... Company) regarding the item of customs import differences for the year 2011, while the objection concerning the customs import differences for the year 2010 and for the years 2012 and 2013 is rejected.
- 3- Reject objection of the Plaintiff (..... Company) regarding the item of salary and wage differences exceeding the social insurance certificate for the years 2010 to 2012.

Since this Decision was not accepted by Zakat Payer (..... Company), they submitted an appeal memorandum, which summarized the following points:

Zakat Payer objects to Decision of the Primary Department under appeal, asserting that regarding rejection of the objection to the tax assessment on procedural Grounds, objection to the assessment issued on 28/12/1436 AH, registered with ZATCA under No. 19/22/1437 dated 2/1/1437 AH, covered all items in the assessment for the years 2010 to 2013. Therefore, there is no justification for denying his right to discuss the substantive aspects of the case, especially as ZATCA did not adjust the taxable and zakat net profits, which are the basis for calculating both tax and zakat. Regarding the item (Salary Differences exceeding the Social Insurance Certificate for the years 2010 to 2013), Zakat Payer claims that ZATCA added salaries and wages related to (...) Establishment, noting that (...) Company acquired (...) Establishment and added its workforce to the social insurance account at the end of 2012. As a result, Zakat Payer requests that the salary differences, amounting to SAR (975,430) for the years in question, not be added to the tax and zakat base. Concerning the item (Customs Import Differences for the years 2010 to 2013), Zakat Payer argues that the Primary Department rejected his objection regarding the deduction of customs fees for 2013 due to the alleged failure to submit supporting documents and the purchase expenses report, despite the fact that they were submitted. As for the item (Estimated Import Profits for (...) establishment for the years 2010 to 2013), Zakat Payer claims that the imports were attributed to the file of (...) establishment, No. (...). Zakat Payer claims that ZATCA made a material error by confusing the accounting unit and the separate financial liability between the company and the establishment. Subjecting an amount related to a Saudi partner's liability to a mixed company's account contradicts the principle of tax and zakat fairness. How can the company be taxed on import profits when the documents clearly show that the differences pertain solely to the Saudi partner (... Establishment)? Regarding the item (Trademarks), Zakat Payer asserts that the Primary Department did not address this item, despite it being mentioned in both the main objection and the supplemental objection. Therefore, Zakat Payer requests that this item be reviewed and ruled on. As for the item (Zakat Assessment Differences), Zakat Payer claims that the Department confirmed resolution of the dispute regarding estimated profits, yet ZATCA made a material error by confusing the accounting unit and the



separate financial liability between the company and the Establishment. For these reasons, Zakat Payer requests annulment of Primary Department's Decision under appeal. On Tuesday, 03/11/1441 AH, corresponding to 23/06/2020 AD, after reviewing the submitted appeal, it became evident from investigation of the appeal that the prescribed deadline for filing it had passed. However, the appeal was submitted during the period of exceptional circumstances related to COVID-19 pandemic, which resulted in restrictions on movement of individuals and hindered them from conducting their activities as usual. The time limits for filing appeals and objections to judicial rulings are typically calculated under normal, non-exceptional circumstances. Given that COVID-19 pandemic is considered a disaster and an extraordinary, unprecedented event, an unforeseen public emergency, it imposed widespread precautionary measures, including curfews, restrictions on movement within and between cities and neighborhoods in some areas, and suspension of attendance at workplaces in government institutions. This led to disruption of many accounting and legal offices specializing in filing appeals on judicial Decisions related to zakat and tax matters on behalf of Zakat Payers. As the effects of this pandemic are beyond the control of the Appellant, and could neither be anticipated nor prevented, and were not caused by negligence or failure, the removal of harm resulting from the missed opportunity to appeal judicial rulings due to such widespread emergencies aligns with the principles of Islamic law and jurisprudence, such as the rule of "No harm and no reciprocating harm," and that "harm must be removed." Accordingly, the Department, by majority, decided to accept the appeal on procedural Grounds and instructed the Appeals Committee Study Department to prepare a report on the substantive aspects of the Appeal.

The Department decided to reopen the hearing, and a response memorandum was submitted by ZATCA, dated 03/11/1441 AH, corresponding to 01/08/2022 AD, addressing Zakat Payer's appeal. The memorandum summarized ZATCA's position, reaffirming the arguments previously presented before the Primary Department. It emphasized that Zakat Payer's claims do not differ from those previously raised and responded to by ZATCA. Regarding the item (Tax Assessment for the years 2010 to 2013), Zakat Payer submitted an objection without paying the tax differences that were not disputed, such as differences in depreciation and maintenance expenses, which is a violation of Paragraph (b) of Article (66) of the Income Tax Law and Paragraph (3) of Article (60) of the Implementing Regulations of Income Tax Law. Regarding the item (Estimated Profits for ... Establishment), ZATCA clarified that it accepted Zakat Payer's objection only on the zakat aspect, while the tax aspect was rejected as explained in the previous section. Concerning the item (Customs Import Differences), ZATCA cited Circular No. (2030/9) dated 15/04/1430 AH and Paragraph (1-a) of Article (5) of Zakat Collection Regulations issued in 1438 AH. Since Zakat Payer did not provide supporting documents or relevant extracts for purchase expenses, the objection was rejected. Regarding the item (Salary and Wage Differences exceeding the Social Insurance Certificate), ZATCA referred to Paragraph (1) of Article (5) and Paragraph (2) of Article (6) of Zakat Collection Regulations issued in 1438 AH, stating that only expenses justified by supporting documents shall be deducted from zakat base. ZATCA accepts only what is proven through the certificate issued by the General Organization for Social Insurance (GOSI), as it is an official document issued by a neutral government entity used to verify the fairness of salaries and wages charged to accounts. Accordingly, ZATCA reaffirms the validity of its actions and correctness of Primary Department's Decision. ZATCA requests that no new documents or requests from Zakat Payer be accepted, citing Article (186) of the Law of Civil Procedures. Therefore, ZATCA upholds the validity of its procedures and requests rejection of Zakat Payer's appeal and affirmation of Primary Department's Decision for the reasons stated.



On Wednesday, 04/01/1444 AH, corresponding to 01/08/2022 AD, the Department decided to hold a 10-day electronic hearing session. The period passed without any additional submissions from either party involved in the appeal.

And on Wednesday, 11/02/1444 AH, corresponding to 07/09/2022 AD, and after reviewing and responding to appeal memoranda and examining case file documents and evidence, the Department has determined that the case is ready for resolution and a Decision on merits. Therefore, the Department decided to close the hearing and reserve the case for judgment.

Grounds:

Having taken cognizance of Case documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been met in form in accordance with conditions stipulated in relevant laws, regulations, and Decisions. Therefore, the appeal is accepted in form for being filed by a party having capacity and within the prescribed statutory period.

On merits, concerning Zakat Payer's appeal against Primary Department's rejection of his objection to the tax assessment on procedural Grounds, Zakat Payer claims that his objection to the assessment covered all the items for the years in question, and there is no justification for denying his right to discuss the substantive aspects. On the other hand, ZATCA maintains the validity and correctness of its procedures and requests rejection of Zakat Payer's appeal and affirmation of Primary Department's Decision. Upon reviewing the subject of dispute, after examining the appeal and case file, the Department noted that Primary Department's rejection of Zakat Payer's procedural objection to the tax assessment was based on Paragraph (b) of Article (66) of the Income Tax Law and Paragraph (1) of Article (60) of the Implementing Regulations of Income Tax Law. However, the review of this case by the Primary Department pertains to a procedural matter governed by the rules outlined in the Tax Dispute and Violation Committee Procedures. Since Article (4) of these Regulations does not impose a requirement on Zakat Payer to pay the undisputed amounts as a condition for submitting an objection, and given that these regulations were in force at the time of the case, the Department finds no legal basis preventing Zakat Payer from submitting his objection in accordance with the law. Therefore, this Department concludes to accept Zakat Payer's appeal regarding Primary Department's rejection of his objection to the tax assessment on procedural Grounds and remands the case to the First Department for Determination of Income Tax Violations and Disputes in Jeddah for substantive consideration.

Regarding Zakat Payer's appeal concerning the item of "salary differences charged to accounts," Zakat Payer's appeal is based on the objection to Primary Department's Decision on this item. The Appellant claims that ZATCA added salaries and wages related to a company that he had acquired, while ZATCA asserts the correctness and validity of its procedure, requesting rejection of Zakat Payer's appeal and confirmation of Primary Department's Decision. Upon reviewing dispute subject, examining the appeal, and scrutinizing case file, and considering that the dispute is document-based, and since Zakat Payer has not provided the Department with evidence proving the actual incurrence of the expenses in question, the Department has determined that the conclusion reached by the Primary Department is correct. Therefore, the Department decides to reject Zakat Payer's appeal and uphold Primary Department's Decision regarding its conclusion.

Regarding Zakat Payer's Appeal concerning the item of "Customs Import Differences," Zakat Payer's appeal is based on objection to the Decision made by the Primary Department on this item. The Appellant claims that the Department rejected deduction of customs fees due to the lack of supporting documents, despite having provided them. Meanwhile, ZATCA asserts the correctness and validity of its procedure and requests



rejection of Zakat Payer's appeal and confirmation of Primary Department's Decision. After reviewing the subject of dispute, examining the Appeal, and scrutinizing case file, and considering that the dispute is document-based, and since the Appellant has provided evidence of paying customs fees for the year 2013 amounting to SAR (1,646,494), but has not provided evidence supporting his appeal regarding other direct expenses for the years 2010 and 2012, the Department concludes that the Decision under appeal shall be amended. The Department accepts the customs fee expenses for 2013, amounting to SAR (1,646,494), and rejects the appeal for the remaining amounts related to 2010 and 2012, affirming ZATCA's right to add them to Zakat base.

Regarding Zakat Payer's appeal concerning the item of "Zakat Assessment Differences," Zakat Payer's appeal is based on the objection to Primary Department's Decision on this item. The Appellant claims that ZATCA failed to differentiate between the accounting unit and the separate financial liability between the Company and the Establishment. Meanwhile, ZATCA asserts the correctness and validity of its procedure and requests rejection of Zakat Payer's appeal and confirmation of Primary Department's Decision. After reviewing subject of the dispute, examining the appeal, and scrutinizing case file, it became evident to the Department that the dispute between the two parties regarding Zakat aspect had been resolved, as ZATCA accepted Appellant's point of view. However, regarding the tax aspect, where Zakat Payer's objection was dismissed on procedural Grounds, the Department has concluded to accept Zakat Payer's appeal against Primary Department's Decision in this regard. Therefore, the Department decides to accept Zakat Payer's appeal concerning this item and refer the case back to the First Department for Determination of Income Tax Violations and Disputes in Jeddah.

Regarding Zakat Payer's appeal concerning the item of "trademarks," Zakat Payer's appeal is based on objection to Primary Department's disregard of this item, despite it being included in Appellant's submitted objection list. Meanwhile, ZATCA asserts the correctness and validity of its procedure and requests rejection of Zakat Payer's appeal and confirmation of Primary Department's Decision. After reviewing the subject of dispute, examining the appeal, and scrutinizing case file, it became evident that the Decision under appeal did not address Appellant's objection on this item. This leaves the matter unresolved as stated in the Decision, meaning the Primary Department did not exhaust its jurisdiction in resolving the dispute. To ensure Appellant's right to a two-tier litigation process, the Department concludes to refer the case back to the First Department for Determination of Income Tax Violations and Disputes in Jeddah to examine this item substantively in light of Appellant's requests and arguments.

For the aforementioned Grounds, the Department unanimously decided as follows:

Decision:

First: Accept, in form, the Appeal submitted by Zakat Payer, Company, (Commercial Register ...), TIN (...), against Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, Decision No. (IZJ-2020-24), issued in Case No. (ZI-11-2018) related to zakat assessment for the years 2010 to 2013.

Second: On Merits:

1- Annul Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah regarding its ruling on the tax assessment on procedural Grounds, and referring the case back to them for substantive review, in accordance with the reasons and Grounds stated in this Decision.

2- Reject Zakat Payer's appeal regarding the item "salary differences charged to accounts," and uphold Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, in accordance with the reasons and Grounds stated in this Decision.



3- Regarding the item "Customs Import Differences":

a. Reject Zakat Payer's appeal regarding this item for the years 2010 and 2012, and uphold Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, in accordance with the reasons and Grounds stated in this Decision.

b. Accept Zakat Payer's appeal regarding this item for the year 2013, and amend Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah by approving the customs fee expenses amounting to SAR (1,646,494), in accordance with the reasons and Grounds stated in this Decision.

4- Accept Zakat Payer's appeal regarding the item "Zakat Assessment Differences," and annul Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, with the case being referred back to them for substantive review, in accordance with the reasons and Grounds stated in this Decision.

5- Accept Zakat Payer's appeal regarding the item "trademarks" and refer the case back to the First Department for Determination of Income Tax Violations and Disputes in Jeddah for substantive review, in accordance with the reasons and Grounds stated in this Decision.

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



Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-276
Case No. IW-1752-2018

Key words:

Zakat and Tax – Accounts – Life Insurance – Social Insurance – Withholding Tax related to Royalties

Abstract

The Appellant (Zakat Payer/ZATCA) requests to annul Primary Department's Decision No. (27) concerning Zakat and tax assessment for the years 2008 to 2011. Zakat Payer's appeal focuses on the item "life insurance for the years 2009 and 2010" and the item "social insurance for the year 2009," claiming that these expenses shall be deducted as they are documented and necessary for conducting the income-generating activity subject to tax. Additionally, the appeal addresses the "late payment fine," with the claim that the fine shall not be imposed when there is a genuine technical dispute between the two parties involved in the appeal. It has been established to the court regarding the "life insurance for the years 2009 and 2010" item that the dispute was not document-based in its subject. As for the "social insurance for the year 2009" item, Zakat Payer submitted a report from a certified accountant, which confirmed the matching of the payroll and employee-related costs, both subject and not subject to social insurance contributions, with the costs listed in the audited financial statements and other accounting records of Zakat Payer for the year under dispute. Regarding the "late payment fine" item, the Department has determined that the conclusion reached by the initial committee in its Decision regarding the fine is correct. This means accepting some items and rejecting others.

Instruments:

- [Zakat Law promulgated by Royal Order No. \(17/28/577\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

This is to review the Appeal submitted on 19/02/1440 AH, corresponding to 29/10/2018, by (...) Company and ZATCA, against Decision of the Third Primary Committee for Zakat and Tax Objections in Riyadh, Decision number (27) for the year 1436 AH, concerning Zakat and tax assessment for the years 2008 to 2011, in the case filed by the Appellant against ZATCA. The Decision of Third Primary Committee for Zakat and Tax Objections in Riyadh included the following:

First: In Form: In from: Accept, in form, Zakat Payer's objection, in accordance with the rationale of the Decision.

Second: On Merits:

1- Uphold Zakat Payer's objection regarding the failure to deduct salary and wage differences for the years 2008 to 2010, in accordance with the rationale of the Decision.



2- Reject Zakat Payer's objection regarding the failure to deduct life insurance for the years 2009 and 2010 from the tax base, while supporting the claim to deduct it from the Zakat base, in accordance with the rationale of the Decision.

3- Reject Zakat Payer's objection regarding the failure to deduct the increase in social insurance paid in 2009 from both the tax and Zakat bases, in accordance with the rationale of the Decision.

4- Uphold Zakat Payer's objection regarding the failure to deduct the salary and allowance differences for the year 2011, in accordance with the rationale of the Decision.

5- Regarding the withholding tax differences for the years 2008 to 2011:

1- Affirm Zakat Payer in their payment of all withheld tax amounts related to royalties paid to (...) Company for all disputed years, in accordance with the rationale of the Decision.

2- Regarding the withholding taxes on technical services paid to (...) Company:

a. Administrative services for the year 2011: The dispute between the two parties on this item was settled when ZATCA accepted Zakat Payer's perspective.

b. Miscellaneous services: Reject Zakat Payer's objection regarding the withholding tax on amounts paid for miscellaneous services, in accordance with the rationale of the Decision.

c. Salary reimbursement: Reject Zakat Payer's objection regarding the withholding of tax on transferred amounts, in accordance with the rationale of the Decision.

d. Transfers: Reject Zakat Payer's objection regarding the withholding of tax on transfer amounts, in accordance with the rationale of the Decision.

e. Tickets and travel expenses: Reject Zakat Payer's objection regarding the withholding of tax on ticket and travel expense amounts, in accordance with the rationale of the Decision.

3- Regarding the technical services paid to affiliated companies, according to ZATCA's view, and non-affiliated companies, according to Zakat Payer's view, for the year 2011:

a. The dispute over the amount for technical services in 2011 was resolved with Zakat Payer agreeing upon the amount assessed by ZATCA, taking into account the impact of exchange rate fluctuations at the time of payment and transfer, in accordance with the rationale of the Decision.

b. Reject Zakat Payer's objection regarding payments to non-affiliated companies for direct services provided by non-resident entities, in accordance with the rationale of the Decision.

4- Regarding the technical services paid to non-affiliated companies:

a. The dispute over the amount for technical services provided by non-resident entities was resolved with Zakat Payer agreeing to the amount assessed by ZATCA, in accordance with the rationale of the Decision and considering (b) below.

B. Uphold Zakat Payer's claim concerning the payment of withheld tax amounts, in line with the reasoning provided in the Decision.

5- Affirm Zakat Payer's objection regarding the withheld tax amount on consultancy services paid to (...) Company, in accordance with the rationale of the Decision.

6- Reject Zakat Payer's objection regarding the withholding of tax on amounts paid to (...) residing in Dubai, amounting to SAR (894,401), in accordance with the rationale of the Decision.

7- The dispute between the two parties regarding the withholding tax on consultancy services paid to (...) Company was resolved with ZATCA agreeing to Zakat Payer's viewpoint.

8- Reject Zakat Payer's objection regarding the withholding of tax on travel expenses paid to various non-resident entities, considering them affiliated companies, in accordance with the rationale of the Decision and Committee's ruling in item number (3) above.



9- Reject Zakat Payer's objection regarding the withholding of tax on miscellaneous expenses for the years 2009 and 2010, in accordance with the rationale of the Decision.

10- Reject Zakat Payer's objection regarding the withholding of tax on transfers made on behalf of (...) Company to non-resident companies, in accordance with Committee's ruling in item (2) of Decision number (5) above.

11- Regarding the administrative services paid to (...) Company: Apply committee's Decision in item (2), with its subsections (a, b, c, d, e) from Decision number (5) above, where the content of this item merely reaffirms Zakat Payer's objection detailed in item (2) above with its subsections (a, b, c, d, e) from Decision number (5) above.

6- Regarding late payment fines:

a. Uphold Zakat Payer's objection to the imposition of late payment fines on technical services, in accordance with the rationale of the Decision.

b. Reject Zakat Payer's objection to the imposition of late payment fines on the items Zakat Payer objected to, but which the Committee did not support, in accordance with the rationale of the Decision.

c. Reject Zakat Payer's objection to the imposition of penalties from the date of filing the return, in accordance with the rationale of the Decision.

As this Decision was not accepted by either party, both submitted appeals, summarized as follows:

Regarding Zakat Payer's appeal on the Primary Committee for Objection, the appeal focuses on the following: Concerning the item "withholding tax differences for the years 2008 to 2011" related to "administrative services for 2011," Zakat Payer's appeal statement confirms that the dispute on this item has been resolved. As for "miscellaneous services," Zakat Payer claims that the withholding tax imposed on payments for miscellaneous services is incorrect, arguing that they are reimbursed expenses incurred by (...) Company. In favor of Zakat Payer, concerning the "reimbursed salaries and wages for the year 2009," Zakat Payer claims that the amounts paid for salaries and wages are reimbursed expenses, paid by (...) Company due to the absence of a human resources department within Zakat Payer's organization. Regarding the "transfers for the year 2009," Zakat Payer claims that the transferred amounts represent the value of services in the form of royalties provided by (...) Company to (...) Company, which in turn Transferred those amounts to the Taxpayer instead of Company. As for the item (Travel Expenses for the Years 2010 and 2011), the Taxpayer claims that the travel expenses should not be subject to withholding tax since they are expenses paid outside the Kingdom. The Taxpayer also submitted a number of invoices of service providers. While as for the item (Technical Services), the Taxpayer claimed that the disputed payments have been made to unrelated companies, which do not hold any shares in the Taxpayer's company and the services have been provided to customers directly by non-resident parties, and his role was to mediate for delivering those amounts. With regard to the item (Tickets and Travel Expenses), the Taxpayer claimed that these amounts should not be subject to tax because they were paid outside the Kingdom. With regard to (Technical Services Provided to Unrelated Parties), the Taxpayer claimed that the amount of this item was paid to a company residing in the Kingdom, and therefore the advance payment is not subject to the tax, arguing that ZATCA has based its assessment on the accrual basis rather than the cash basis, which is contrary to the tax accounting system. As for the item (Consulting Fees - (...)), the Taxpayer claimed that he withheld tax on the amount of SAR 446,108, which is subject to withholding tax, which is not the same amount as ZATCA held in its assessment which was SAR 1,034,735, claiming that the remaining amount was reversed due to the absence of reason for payment. With regard to the item (Travel Expenses for Multiple Non-resident Parties), the Taxpayer claims that the transaction amount was double taxed in ZATCA's assessment. It was included in the item (Technical Services - Multiple Related Parties). With regard to



(Miscellaneous Expenses) item, the Taxpayer claims that the amount of SAR 91,504 includes an amount of SAR 30,501 that was double taxed in ZATCA's assessment; once within the Miscellaneous Expenses item and once again within the Technical Services item (...) at a rate of (5%). The Taxpayer also challenged the validity of ZATCA's Decision to charge withholding tax on those amounts as they are recoverable expenses incurred by the Company for the benefit of the Taxpayer. With regard to (Travel Expenses), the Taxpayer claims that the travel expenses should have not been subject to withholding tax, as they are expenses paid outside the Kingdom. As for the (Transfers) item, the Taxpayer claims that the transaction amount of SAR 2,283,086 has been double taxed with withholding tax in ZATCA's assessment; once at a rate of 15% within the Transfers as an independent item and again within the item of Technical Services (...) at a rate of (5%). The Taxpayer also challenged the validity of ZATCA's Decision to charge withholding tax on those amounts. As for the (Management Services (...)), the Taxpayer claims that the transaction amount of SAR 3,120,731 has been double taxed with withholding tax in ZATCA's assessment; once at a rate of (5%) under the item (Technical services - (...)), and once again at a rate of 20% under the item (Management Services). As for the item (Life Insurance for the Years 2009 and 2010), the Taxpayer claims that life insurance expenses are deductible expenses for being documented and necessary for running the activity that generates the taxable income, while as for the item (Social Insurance for the year 2009), the Taxpayer claims that social insurance expenses are deductible expenses for being documented and necessary for running the activity that generates the taxable income. As for the item (Late Payment Fine), the Taxpayer claims that the fine should not apply in the event of a material technical disagreement between the two parties to the appeal. Accordingly, the Taxpayer requested that the Decision of the Primary Objection Committee be overturned for the Grounds stated above.

ZATCA also appealed the Decision with a statement of appeal including the following: With regard to the item (Withholding Tax Related to royalties PAID to Company), ZATCA maintained the validity of its Decision to charge a withholding tax on the amounts added to the accounts for transactions with Company regardless of whether the payment was made or not based on Article (631/) of the Implementing Regulations of the Income Tax Law, and with regard to the item (Technical Services Paid to Related companies for the Year 2011), ZATCA maintained the validity of its procedure to charge a withholding tax on the amounts added to the accounts for transactions with related parties regardless of whether the payment was made or not based on Article (631/) of the Implementing Regulations of the Income Tax Law, and accordingly, ZATCA maintained the validity and soundness of its procedure, and requests that its Decision be upheld and the Decision of the Primary Objection Committee be overturned as to the appealed items for the Grounds stated.

The Department decided to open the door for pleadings. ZATCA submitted a plea on 18/01/1443 AH corresponding to 26/08/2021 AD, in which it responded to the Taxpayer's appeal, submitting that it maintains the validity and soundness of its Decision and that the arguments raised by the Taxpayer do not go beyond what he had previously submitted and ZATCA responded to, requesting also that no new requests is accepted from the Taxpayer based on Article (186) of the Law of Civil Procedures and concluding with a motion to dismiss the Taxpayer's appeal and to uphold the Primary Objection Committee for the Grounds stated.

On Tuesday 06/03/1443 AH corresponding to 12/10/2021 AD, the Department decided to hold a 10-day e-hearing session. However, that period passed without receiving any additional petitions from the two parties to the appeal.

On Sunday 16/01/1444 AH, corresponding to 14/08/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing documents included in Case



file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds:

Upon reviewing Case documents and statement of appeal submitted by Zakat Payer, the Department found that conditions of appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations, and Decisions. Therefore, the Appeal request was accepted in form for being submitted by a person with legal capacity and within the statutory prescribed period.

As on merits: In the Taxpayer's appeal regarding the item (life Insurance for the Years 2009 and 2010), the Taxpayer objected to the Decision of the Primary Objection Committee regarding this item claiming that these expenses are documented and necessary for running the activity that generates the taxable income, while ZATCA maintained the validity and soundness of its procedure requesting that the Taxpayer's appeal be dismissed and the Decision of the Primary Objection Committee be upheld. Having reviewed the Taxpayer's appeal as well as the documents contained in the case file; and since it is legally established that all necessary expenses for generating the taxable income should be deducted provided that they are supported by supporting documents and used for generating the taxable income; and since determining the expenses used to generate taxable income in cases nor provided for requires that the general practice for determining whether these expenses as related to generating income or not, and since the general practice is that companies compete in providing benefits to their employees, and incur this type of expenses to attract talents and consequently increase their revenues; and since the dispute is not document-based, therefore, this Department concludes to accept the Taxpayer's appeal and overturn the Decision of the Primary Committee in this respect. As for the Taxpayer's appeal regarding the item (Social Insurance for the Year 2009), the Taxpayer objected to the Decision of the Primary Objection Committee regarding this item claiming that these expenses should be deducted for being documented and necessary for running the activity that generates taxable income, while ZATCA maintained the validity and soundness of its procedure and requests that the Taxpayer's appeal be dismissed and the Decision of the Primary Objection Committee be upheld. Having reviewed the Taxpayer's appeal as well as the documents contained in the case file; and since the dispute is document-based; and given that the Taxpayer submitted a report from a chartered accountant that proves that the payroll and costs related to employees covered and not covered by social insurance contributions match the costs included in the audited financial statements and other accounting records of the Taxpayer for the year in dispute; and since the Taxpayer submitted documents supporting his claims, this Department concludes to accept the Taxpayer's appeal and overturn the Decision of the primary committee in respect of this item.

As for the Taxpayer's appeal regarding the item (Withholding Tax Differences from 2008 to 2011), and the item (Various Services), the Taxpayer objects to the Decision of the Primary Objection Committee regarding this part of this item claiming that the imposition of withholding tax on various services payments is baseless because these were recoverable expenses incurred by Company for the benefit of the Taxpayer, while ZATCA maintained the validity and soundness of its Decision requesting that the Taxpayer's appeal be dismissed and that the Decision of the Primary Objection Committee be upheld. Since Article 68(h) of the Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH stipulates that: "For the purposes of this article and Article 5 of this Law, Services shall means any work performed for compensation, except for the purchase and sale of goods or any other properties." Accordingly, and given that



the payments for various services are administrative support services, the Department concludes to dismiss the Taxpayer's appeal and uphold the primary Decision in respect of this item.

As for the item (Recovered Salaries for the Year 2009), the Taxpayer objects to the Decision of the Primary Objection Committee regarding this part of this item claiming that the salaries and wages paid are recoverable expenses, paid by Company due to the absence of a human resources department at the Taxpayer's establishment, while ZATCA maintained the validity and soundness of its procedure and requested that the Taxpayer's appeal be dismissed and the Decision of the Primary Objection Committee be upheld. Since the Taxpayer submitted to this Department a number of supporting documents including a sample of employee contracts, a breakdown of those amounts, and bank account statements proving that salaries were transferred to the Taxpayer's employees, and that the Taxpayer has incurred the disputed expenses, the Department concludes to accept the Taxpayer's appeal and considering them as deductible expenses.

As for the item (Transfers for the Year 2009), the Taxpayer objects to the Decision of the Primary Objection Committee regarding this part of this item, claiming that the transferred amounts are the value of services, which are royalties provided to Company, which in turn transferred those amounts to the Taxpayer instead of Company, while ZATCA maintained the validity and soundness of its procedure and requested that the Taxpayer's appeal be dismissed and the Decision of the Primary Objection Committee be upheld. Since the primary Decision was based on the dismissal of the Taxpayer's objection due to the lack of supporting documents proving that the Taxpayer's claim that they were transfers that were supposed to be transferred by Company to Company; and since the documents submitted by the Taxpayer does not prove the Taxpayer's claims, they therefore cannot be relied upon for quashing the appealed Decision, and hence the Department hereby concludes to dismiss the Taxpayer's appeal and uphold the primary Decision in this respect.

As for the item (Tickets and Travel expenses for the Years 2010 and 2011), the Taxpayer objects to the Decision of the Primary Objection Committee regarding this part of this item, claiming that these amounts are not taxable because they were paid outside the Kingdom, while ZATCA maintained the validity and soundness of its procedure and requested that the Taxpayer's appeal be dismissed and the Decision of the Primary Objection Committee be upheld. The Department having reviewed the Taxpayer's appeal and submissions as well as the sample of invoices from companies providing technical and consulting services that the Taxpayer submitted, established that the Taxpayer did not incur these disputed expenses, and since this Department found that the conclusion reached by the appealed Decision was valid, and that the Grounds on which the primary committee based its Decision are sufficient to support this Decision, accordingly, this Department concludes to dismiss the Taxpayer's appeal and support the primary Decision in this regard for the Grounds stated.

With regard to (Technical Services Paid to Related Companies according to the Opinion of ZATCA, Not Related According to the Opinion of the Taxpayer for the Year 2011 AD), the Taxpayer objected to the Decision of the Primary Objection Committee regarding this part of this item, claiming that the amount of the item is paid to a company residing in the Kingdom and therefore the advance payment is not taxable, and that ZATCA based its assessment on the accrual rather than the cash basis, which is contrary to the tax accounting system, while ZATCA maintained the validity and soundness of its procedure and requested that the Taxpayer's appeal be dismissed and that the Decision of the Primary Objection Committee be upheld. The Department, having reviewed the Taxpayer's appeal, found that the Taxpayer did not incur these disputed expenses, and it became clear to this Department that the conclusion reached by the appealed Decision



was valid and that the Grounds on which the primary committee based its Decision were sufficient to support this Decision, accordingly, this Department concludes to dismiss the Taxpayer's appeal and to confirm the primary Decision in this regard for the Grounds stated therein. As for the Appellant's argument that the rate applicable to these amounts should be (5%) and not (15%), arguing that the ministerial Decision that set the rate at (15%) was issued on: (18/05/1435 AH) and therefore it should not have been applied retrospectively, it was established that the years of dispute preceded the issuance of the ministerial Decision that set the rate at 15%, therefore, the Department concludes that the Taxpayer is entitled to charging (5%) on the amounts related to this item.

As for the item (Technical Services Provided to Non-related Parties), the Taxpayer objected to this item in the statement of objection submitted to ZATCA; and since the primary department did not determine the Taxpayer's objection contained in the objection filed with ZATCA (formerly GAZT); and since the jurisdiction of the appeal courts is to consider the appealable judgments delivered by the first instance courts, and to ensure that the Taxpayer doesn't miss his right to plead his case at two grades of litigation, this Department concludes to cancel the primary Decision regarding this item, and to remand it to the Third Department for Determination of income tax violations and disputes in Riyadh according to the Taxpayer's letter of objection filed with ZATCA.

As for the item (Technical Services Paid to Related Companies according to the opinion of ZATCA, not related according to the opinion of the Taxpayer for the year 2011), the Taxpayer objects to the Decision of the Primary Objection Committee regarding this part of this item, claiming that the rest of the amount was reversed because there was no ground for paying it, while ZATCA maintained the validity and soundness of its procedure and requested that the Taxpayer's appeal be dismissed and the primary Decision be upheld in this respect. And since this Department found that the appealed Decision was right in this respect, and that the Grounds on which the Primary Committee based its Decision are sufficient to support the Decision, accordingly this Department concludes to dismiss the Taxpayer's appeal and to uphold the primary Decision in this regard based on its Grounds.

As for the item (Travel Expenses for Multiple Non-resident related Parties according to the opinion of ZATCA and not related according to the opinion of the Taxpayer), since the Taxpayer objects to the Decision of the Primary Objection Committee regarding this part of this item, claiming that the transaction amount was double taxed with withholding tax in ZATCA's assessment, while ZATCA maintained the validity and integrity of its procedure and requested that the Taxpayer's appeal be dismissed and the Decision of the Primary Objection Committee be upheld. The Taxpayer argues that the transaction amount was double taxed with withholding tax in ZATCA's assessment, where it was included in the amounts of technical services for multiple related parties. Having referred to ZATCA's assessment, it was found that ZATCA subjected travel expenses as an independent item under the name (travel expenses for multiple non-resident parties), and it was included in the payments of technical services for multiple related parties, therefore, the Department in avoidance of double taxation concludes to accept the Taxpayer's appeal and approve his entitlement to deduct these expenses from his tax base and to overturn the primary Decision in this respect.

With regard to (Miscellaneous Expenses) item, the Taxpayer challenges the primary Decision in respect of this part of this item, claiming that this item was double taxed with withholding tax in ZATCA's assessment, while ZATCA maintained the validity and soundness of its procedure and requests that the Taxpayer's appeal be rejected and the Decision of the Primary Objection Committee be upheld. The Department held that the Appellant claims that an amount of SAR 91,504 included an amount of SAR 30,501 that was double taxed in ZATCA's assessment; once within the Miscellaneous Expenses item and



once again within the Technical Services item at a rate of 5%. The Taxpayer also challenged the validity of the amounts being subject to withholding tax as they are recoverable expenses incurred byCompany for the benefit of the Taxpayer. Having reviewed ZATCA's assessment, it was found that ZATCA had double taxed this amount under two different items. Accordingly, this Department concludes to accept the Taxpayer's appeal and that he is entitled to deduct these expenses from his tax base and to overturn the primary Decision in this respect.

As for the (Other Services) item, this Department found that the Taxpayer objected to this item within the statement of objection submitted to ZATCA, and since the Primary Department did not address the Taxpayer's objection as stated in the statement of objection submitted to ZATCA; and since the Appellate Committee has the jurisdiction to consider the appealable Decisions delivered by the primary committees, and in order not to deprive the Taxpayer of the right to litigate at the two grades, this Department concludes to overturn the primary Decision regarding the objection to this item, and remand the case to the Third Department for Determination of Income Tax Violations and Disputes in Riyadh city.

As for the Travel Expenses item, and since the Taxpayer challenges the Primary Objection Committee regarding this part of this item, claiming that the expenses in issue are expenses paid outside the Kingdom, while ZATCA maintained the validity and soundness of its procedure and requested that the Taxpayer's appeal be dismissed and the Decision of the Primary Objection Committee be upheld. The Department, having examined the Taxpayer's objection and considered the documents contained in the case file, and since the Taxpayer's objection to (Ticket and Travel expenses) item was based on its claim that ZATCA had made its assessment based on the entire amount of invoices collected by ZATCA as per the technical services statement with related parties, which included a statement of travel expenses, and that taxing the same amount under (Travel Expenses) item resulted in double taxation of that amount; firstly within the Travel Expenses item and secondly within the Technical Services item. The Taxpayer also argued that with regard to travel tickets, Article (4/64) of the Implementing Regulations of the Tax Law stated that the payments for airline tickets subject to withholding tax - as alleged by the taxpayer- are payments for the purchase of travel tickets paid in the Kingdom to air carriers or their agents or Representatives in the Kingdom, and because these payments were not made in the Kingdom, they are not subject to withholding tax, and therefore the Taxpayer requested that the tax paid and the amounts withheld by mistake be considered as a tax paid in advance that the Taxpayer may use in the future to pay withholding tax. While ZATCA submitted that a withholding tax of 5% was charged on the amounts paid, because they are in fact amounts paid by resident parties to an unrelated and non-resident entity in exchange for support services provided by the non-resident entity. Having examined the appeal regarding the item in question, the Department found that the Zakat Payer's request regarding this item (Tickets and Travel Expenses) is based on his claim that this amount had been double taxed; once within the Technical Services item and once again within the Travel expenses Item, however, this argument is refutable when considering the situation and the Taxpayer's conclusion that is derived from the inspection report; and since reliable approach is that the assessment made is adjusted to its origin as long as ZATCA's Decision had not been proven invalid nor had ZATCA's mistake, if any, been demonstrated. Rather, the Taxpayer's statements were loose with no solid evidence the proves the invalidity of ZATCA's action having revised its declaration and made its assessment accordingly that the Department can rely upon to deliver its Decision in his favor. As for the Taxpayer's argument that the withholding tax charged on travel ticket expenses and amounts paid are invalid invoking the Implementing Regulations of Tax Law, which - as he alleged- supports his saying that no withholding tax should have been



withheld on those amounts being amounts paid to carrier companies outside the Kingdom, as stated in his objection, the Department sees that this argument is ill-grounded, given that the Implementing Regulations state that such amounts if paid for travel and flight tickets in the Kingdom to air carriers outside the Kingdom are subject to the withholding tax, even if such payments are made to the agents and Representatives of those carriers in the Kingdom. This however does not mean that the Taxpayer's conclusion that withholding tax is not due as long as it is paid to carriers outside the Kingdom is admissible, because if it is due if paid inside the Kingdom to the agents and Representatives of carriers, then it is more appropriate that it is due if paid directly to them outside the Kingdom. Therefore, the Department concludes to uphold the primary committee's Decision in respect of this item dismissing all the pleas and arguments raised by the Appellant (Taxpayer). Accordingly, this Department concludes to dismiss the Taxpayer's appeal and uphold the Decision of the primary committee in respect of this item.

With regard to the (Transfers) item, the Taxpayer objects to the primary Decision regarding this item claiming that the amount of this item has been double taxed with withholding tax in ZATCA's assessment, while ZATCA argued that it maintains the validity and soundness of its procedure and requested that the Taxpayer's appeal be dismissed and the Decision of the primary objection committee be upheld. After due consideration, the Department found that the Taxpayer argued that ZATCA has double taxed the amount of item in issue, as it has been once covered in the assessment under the item (Transfers) as an independent item at a rate of (15%) and again under the item of (Technical Services) at a rate of (5%). The Taxpayer also challenged the validity of subjecting the amount of this item to withholding tax. The Department, having referred to ZATCA's assessment, found that ZATCA has taxed the transfers as an independent item under the name (Transfers), and that the same item has been once again taxed under the item of (Technical Services). It is accordingly held that the transfers item has been double taxed under two different items. Accordingly, this Department concludes to accept the Taxpayer's appeal and to overturn the primary Decision in respect of this item approving that these amounts be deducted from his tax base.

As for the (Paid Management Services) item, the Taxpayer objects to the Decision of the Primary Objection Committee regarding this part of this item, claiming that the amount of this item has been double taxed with withholding tax in ZATCA's assessment, while ZATCA maintained the validity and soundness of its Decision requesting that the Taxpayer's appeal be dismissed and the Decision of the Primary Objection Committee be upheld. The Department found that the Taxpayer challenged ZATCA's Decision to double tax the same amount; once at a rate of 5% within the Technical Services item and once again at a rate of 20% within the item (Management Services). Having examined ZATCA's assessment, the Department found that the management fees item has been taxed as an independent item under the name (management services), and once again taxed within the item (Technical Services). Therefore, the department having established that this item has been double taxed, concluded to accept the Taxpayer's appeal and request for deducting that amount from the tax base and to overturn the primary Decision in respect of this item.

As for the (Late Payment Fine), the Taxpayer objected to the Decision of the Primary Objection Committee regarding this item claiming that the fine shall not be charged in presence of a material technical disagreement between the two parties to the appeal, while ZATCA argued that it maintains the validity and soundness of its procedure requesting that the Taxpayer's appeal be dismissed and the Decision of the Primary Objection Committee be upheld. The Department, having reviewed the Taxpayer's appeal and examined the case file, concluded, as to the late payment fines related to the items of



appeal accepted by the Department, to cancel the related fines for canceling the Decisions giving rise to such fines, as to the late payment fines related to items dismissed by the Department and where the Department has established the validity of the primary committee's conclusion, this Department decides to uphold the primary Decision in respect of those items for the Grounds stated therein.

As for ZATCA's appeal regarding the item of (Royalties paid toCompany), ZATCA objects to the Decision of the Primary Objection Committee regarding this item claiming that its procedure is valid where it charged withholding tax to the amounts added to the accounts for transactions with related parties regardless of whether they are paid or not. The Department, having reviewed ZATCA's appeal and the documents contained in the case file, and having examined the dispute and the Decision delivered in its respect and the Grounds it was based on, concluded that the primary Decision was right as to this conclusion and that it has provided Grounds that are sufficient to justify the Decision. That conclusion however is not affected by the defenses submitted by ZATCA. Accordingly, this Department hereby decides to uphold the primary Decision in respect of this item for the Grounds stated therein.

As for ZATCA's appeal regarding the item (Technical Services Paid to Related Companies for the Year 2011), ZATCA objects to the primary Decision regarding this item maintaining the validity of its procedure to charge withholding tax to the amounts added to the accounts for transactions with related parties regardless of whether they are paid or not. The Department, having reviewed ZATCA's appeal and the documents contained in the case file, and having examined the dispute and the Decision delivered in its respect and the Grounds it was based on, concluded that the primary Decision was right as to this conclusion and that it has provided Grounds that are sufficient to justify the Decision. That conclusion however is not affected by the defenses submitted by ZATCA. Accordingly, this Department hereby decides to uphold the primary Decision in respect of this item for the Grounds stated therein.

Based on the foregoing and considering the aforementioned reasons, the Department unanimously decided as follows:

Decision:

First: Accept in form the Appeal filed by the Taxpayer Company, C.R. No.., TIN No....., and the appeal submitted by ZATCA against the Decision No. (27) for the year 1436 AH of the Third Primary Zakat and Tax Objection Committee in Riyadh in relation to the zakat and tax assessment for the years from 2008 to 2011 AD.

Second: On Merits:

1. Accept the Taxpayer's appeal regarding the item (Life Insurance for the years 2009 and 2010), and overturn the Decision of the Third Primary Zakat and Tax Objection Committee in Riyadh for the Grounds stated in this Decision
2. Accept the Taxpayer's appeal regarding the item (Insurance for the year 2009), and overturn the Decision of the Third Primary Zakat and Tax Objection Committee in Riyadh for the Grounds stated in this Decision
3. Regarding the item (Withholding tax differences from 2008 to 2011):
 - A. Dismiss the Taxpayer's appeal regarding (Various Services), and uphold the Decision of the Third Primary Zakat and Tax Objection Committee in Riyadh for the Grounds stated in this Decision
 - B. Accept the Taxpayer's appeal regarding (Recovery of Salaries for the year 2009), and overturn the Decision of the Third Primary Zakat and Tax Objection Committee in Riyadh for the Grounds stated in this Decision



C. Dismiss the Taxpayer's appeal regarding (transfers for the year 2009), and uphold the Decision of the Third Primary Zakat and Tax Objection Committee in Riyadh for the Grounds stated in this Decision

D. Dismiss the Taxpayer's appeal regarding (tickets and travel expenses for the years 2010 and 2011), and uphold the Decision of the Third Primary Zakat and Tax Objection Committee in Riyadh for the Grounds stated in this Decision

E. Dismiss the Taxpayer's appeal regarding (technical fees paid to related companies according to the opinion of the unrelated interest according to the Taxpayer's opinion for the year 2011), and adjust the Decision of the Third Primary Zakat and Tax Objection Committee in Riyadh by ruling that a percentage of 5% percent should apply instead of the 15% charged for the Grounds stated in this Decision

F. Cancel the Decision of the Third Primary Zakat and Tax Objection Committee in Riyadh regarding the item (technical services provided to non-related parties) and remand the dispute to the Third Department for Determination of Income Tax Violations and Disputes in Riyadh for the Grounds stated in this Decision

G. Dismiss the Taxpayer's appeal regarding (consulting services paid the resident of Dubai), and uphold the Decision of the Third Primary Zakat and Tax Objection Committee in Riyadh for the Grounds stated in this Decision

H. Accept the Taxpayer's appeal regarding (travel expenses for multiple non-resident related parties according to the opinion of ZATCA and unrelated parties according to the opinion of the Taxpayer), and overturn the Decision of the Third Primary Zakat and Tax Objection Committee in Riyadh for the Grounds stated in this Decision

I. Accept the Taxpayer's appeal regarding (Miscellaneous Expenses), and overturn the Decision of the Third Primary Zakat and Tax Objection Committee in Riyadh for the Grounds stated in this Decision

J. Dismiss the Decision of the Third Primary Zakat and Tax Objection Committee in Riyadh regarding the item (other services) and remand the dispute to the Third Department for Determination of Income Tax Violations and Disputes in Riyadh for the Grounds stated in this Decision

K. Dismiss the Taxpayer's appeal regarding (travel expenses), and uphold the Decision of the Third Primary Zakat and Tax Objection Committee in Riyadh for the Grounds stated in this Decision

L. Accept the Taxpayer's appeal regarding (Transfers), and overturn the Decision of the Third Primary Zakat and Tax Objection Committee in Riyadh for the Grounds stated in this Decision

M. Accept Taxpayer's appeal regarding the item (Management Fees Paid to) and overturn the Third Primary Committee for Zakat and Tax Objections in Riyadh according to the Grounds stated in this Decision.

4. As for item (Late Payment Fine):

A. Accept the Taxpayer's appeal, overturn the Decision of the Third Primary Zakat and Tax Objection Committee in Riyadh, and cancel the fine for the items for which this Department accepted the Taxpayer's appeal for the Grounds stated in this Decision

B. Dismiss the Taxpayer's appeal, and uphold the Decision of the Third Primary Zakat and Tax Objection Committee in Riyadh, and charge a fine on the items for which this Department dismissed the Taxpayer's appeal for the Grounds stated in this Decision

5. Dismiss ZATCA's appeal regarding the item (Royalties Paid to Company), and uphold the Decision of the Third Primary Zakat and Tax Objection Committee in Riyadh for the Grounds stated in this Decision

6. Dismiss ZATCA's appeal regarding the item (Technical services paid to related companies for the year 2011), and uphold the Decision of the Third Primary Zakat and Tax Objection Committee in Riyadh for the Grounds stated in this Decision



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

Successfully Completed, Thanks to Allah