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Tax Appeal Tribunal Upholds VAT Liability on Cross-Border IT Services in PZ Cussons Nigeria PLC v. FIRS

Tax Notes

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On 3 August 2026, the Tax Appeal Tribunal, Lagos Zone, dismissed in part PZ Cussons Nigeria PLC's appeal against the Federal Inland Revenue Service (FIRS), now the Nigeria Revenue Service (NRS), challenging the VAT assessment on IT cost recharges under a Shared Services Agreement. The Tribunal upheld the principal VAT liability of USD 1,666,329.63 on those recharges.

In Appeal No. **TAT/LZ/VAT/044/2024,** the Tribunal addressed two questions. The first was whether cost recharges under a Shared Services (Information Technology) Agreement between a Nigerian company and its UK affiliate constitute a taxable supply of services within the meaning of the Value Added Tax Act (as amended). The second was whether VAT liability arises at the point of supply or upon payment.

Background of the Dispute

The Appellant, PZ Cussons Nigeria PLC, is a multinational fast-moving consumer goods company incorporated in Nigeria. The Appellant and PZ Cussons (International) Limited (PZCIL), a company based in the United Kingdom, are part of the PZ Cussons PLC Group. The Group operates a centralized global Information Technology Department based in the United Kingdom, which serves as a hub for managing the Group's IT infrastructure and requirements worldwide.

In 2019, the Appellant executed a Shared Services (Information Technology) Agreement with PZCIL. Under the Agreement, PZCIL was obligated to procure the services of third-party vendors to perform IT services at the



request and for the benefit of the Appellant. PZCIL would settle the invoices of the third-party vendors centrally and subsequently recharge the Appellant for the costs of the IT services only, without any markup, margin, or profit element. The Appellant obtained the approval of the National Office for Technology Acquisition and Promotion (NOTAP) for the Agreement in June 2023.

Following information obtained from NOTAP, the Respondent, by a letter dated 18 September 2023, informed the Appellant of an outstanding VAT liability of USD 4,482,426.63. The Appellant objected, contending that the payments were reimbursable costs and not liable to VAT. After a reconciliation meeting held on 10 June 2024, the Respondent issued a Notice of Assessment dated 9 September 2024, stating the Appellant's VAT liability in the sum of USD 4,694,883.65, inclusive of penalty and interest. The Appellant's objection was rejected by a Notice of Refusal to Amend dated 14 November 2024, prompting the Appellant to file this appeal.

The Appellant contended that the IT cost recharges were mere reimbursements of costs incurred by PZCIL on its behalf, devoid of any markup or value addition, and therefore not subject to VAT. The Appellant further argued that VAT is accounted for on a cash basis and not on accrual basis, and that since no payment had been made to PZCIL due to macroeconomic challenges and the delay in obtaining NOTAP approval, no VAT liability had accrued. The Appellant also challenged the imposition of a 150% penalty and 31.755% interest under Section 34 of the VAT Act, arguing that the correct penalty regime, if any, was under Section 19 of the Act.

The Respondent, on the other hand, maintained that the IT services were not exempt from VAT under the First Schedule to the VAT Act and therefore constituted taxable supplies. The Respondent argued that the Appellant, having received and consumed the IT services in Nigeria, was liable to account for VAT under the reverse charge mechanism in Section 10 of the VAT Act. The Respondent further contended that VAT liability arises at the point of supply, not upon payment, and that the imposition of penalty and interest under Section 34 was proper.

The Tribunal's Decision

Delivering the judgment, the Honourable Tribunal resolved the appeal on four issues for determination. The Tribunal held that the underlying IT services supplied for the benefit of and consumed by the Appellant in Nigeria constituted taxable services under the VAT Act. The Tribunal found that the recharge arrangement between the Appellant and PZCIL did not alter the statutory incidence of VAT. The Tribunal further held that VAT liability arises at the point of supply and not upon payment, and that the requirement for NOTAP approval did not suspend the operation of the charging provisions of the VAT Act.

However, the Tribunal found that the 150% penalty imposed under Section 34 of the VAT Act was wrongly applied. The Tribunal held that Section 34 applies to a taxable person acting in the capacity of a supplier who fails to collect VAT from a customer, and that the reverse charge mechanism imposed a self-accounting obligation, not a collection obligation. The Tribunal set aside the penalty

and interest imposed under Section 34 and directed the Respondent to reassess the Appellant's penalty and interest liability in strict compliance with Section 19 of the VAT Act, which provides for a penalty of 10% of the unpaid tax and interest at the Central Bank of Nigeria minimum re-discount rate.

Key Holdings and Rationale

1. Substance Over Form in Tax Adjudication

The Tribunal reaffirmed the principle that tax adjudication requires a substance-over-form approach. The Tribunal held that it was duty-bound to examine the real nature of the transaction, which was that an IT service was procured, consumed, and enjoyed by the Appellant in Nigeria, and the cost thereof was ultimately borne by the Appellant. The Tribunal emphasized that it was not bound by the mere interposition of the UK sister company in the payment flow, nor by the description of the transaction as a "recharge" or "reimbursement."

2. Reimbursements and Taxable Supply

The Tribunal distinguished between a mere reimbursement of costs and a taxable supply. It held that where a party merely passes on the exact cost of third-party invoices without any markup or profit element, that party does not make an independent taxable supply. However, the Tribunal found that the underlying IT services constituted a taxable supply by the third-party non-resident vendor to the Appellant, with PZCIL acting merely as a payment and administrative conduit.

3. Reverse Charge Mechanism Under Section 10 of the VAT Act

The Tribunal held that by virtue of Section 10 of the VAT Act, where a non-resident person makes a taxable supply of services to a person in Nigeria, the recipient of such services is required to account for and remit VAT to the Respondent. The Tribunal found that the Appellant was the "person to whom the taxable supply is made in Nigeria" within the meaning of Section 10(3) of the VAT Act. The Tribunal relied on the Court of Appeal decision in Vodacom Business Nigeria Limited v. FIRS, which affirmed that VAT is fundamentally a consumption tax and that the obligation to account for VAT may fall on the recipient of the service in cross-border transactions.

4. Timing of VAT Liability

The Tribunal held that VAT liability arises at the point of supply and not upon payment. The Tribunal distinguished between the statutory event that gives rise to VAT liability and the statutory provisions governing the accounting for, collection, and remittance of that liability. The Tribunal found that Sections 12, 15, and 16 of the VAT Act regulate the accounting for and remittance of VAT, whereas the existence of the liability itself is anchored in the charging provisions of the Act. The Tribunal held that the fact that reimbursement to PZCIL had not occurred did not alter the legal character of the underlying transaction or suspend the operation of the charging provisions of the Act.

5. Penalty Regime Under Section 34 vs. Section 19 of the VAT Act

The Tribunal held that the 150% penalty

imposed under Section 34 of the VAT Act was wrongly applied. It found that Section 34 applies to a taxable person acting in the capacity of a supplier who fails to collect VAT from a customer. The Tribunal rejected the Respondent's argument that the reverse charge mechanism transforms the Appellant into a "collector" of VAT. It held that the reverse charge imposes a self-accounting obligation, not a collection obligation, and that the factual predicate for the application of Section 34 was entirely absent. The Tribunal directed the Respondent to reassess the Appellant's penalty and interest liability under Section 19 of the VAT Act.

Subsidiary Issues Addressed

Procedural Validity of the Assessment

The Tribunal found that due process was duly complied with. The Appellant was issued a Notice of Assessment, filed a valid objection, received a Notice of Refusal to Amend, and properly exercised its right of appeal before the Tribunal. The assessment process was therefore procedurally regular.

Severance of Valid and Invalid Components

The Tribunal held that an assessment may be valid in part and invalid in part. The Tribunal affirmed the principal VAT liability of USD 1,666,329.63 as valid in law and set aside the penalty and interest imposed under Section 34. The Tribunal directed the Respondent to reassess those components under Section 19 of the VAT Act.

Evidentiary Sufficiency

The Tribunal noted that the Appellant tendered sample invoices rather than a comprehensive set for the 2022/2023 period. However, the Tribunal found that the Appellant did not dispute the quantum stated in the Notice of Assessment; its objection was strictly limited to the characterization of the transaction. Consequently, the evidentiary deficiency regarding the completeness of the invoices did not vitiate the assessment, as the quantum was effectively admitted by the Appellant's pleadings and witness testimony.

Practical Implications for Multinational Groups and Cross-Border Service Arrangements

This judgment establishes the following principles with significant implications for multinational groups, tax administration, and cross-border service arrangements in Nigeria:

1. Cost recharges without markup may not constitute a taxable supply by the recharging entity, but the underlying services may still be taxable in Nigeria. Multinational groups operating shared services arrangements must carefully consider the VAT implications of cross-border service flows, even where costs are recharged at cost without any profit element.

2. VAT liability arises at the point of supply, not upon payment. Taxpayers cannot defer VAT liability on imported services by delaying payment to the non-resident supplier. The statutory trigger is the supply of

services to a person in Nigeria, not the subsequent transfer of funds.

3. The reverse charge mechanism imposes a self-accounting obligation, not a collection obligation. The distinction between collection and remittance is critical for determining the applicable penalty regime. Taxpayers who fail to self-account for VAT on imported services should be subject to the penalty regime under Section 19 of the VAT Act, not Section 34.

4. Penal provisions in tax statutes must be construed strictly. The Tribunal reaffirmed the principle that penal provisions cannot be extended by implication or administrative convenience. Tax authorities must apply the correct statutory provision when imposing penalties and interest.

5. Substance over form prevails in tax adjudication. The Tribunal will look beyond the contractual or invoicing structure of a transaction to its true commercial and economic reality. The interposition of related entities in a payment flow will not shield a transaction from VAT liability where the underlying services are consumed in Nigeria.

6. Regulatory approvals do not suspend tax obligations. The requirement for NOTAP approval does not suspend the operation of the charging provisions of the VAT Act. Taxpayers must account for VAT on imported services within the statutory timeline, irrespective of regulatory or foreign exchange constraints.

Comment

The Tax Appeal Tribunal's judgment in PZ Cussons Nigeria PLC v. FIRS (2026) provides much-needed clarity on the VAT treatment of cross-border shared services arrangements in Nigeria. The Tribunal has unequivocally affirmed that the underlying IT services consumed in Nigeria constitute taxable supplies under the VAT Act, and that the recharge arrangement between related parties does not alter the statutory incidence of VAT. The decision reinforces the reverse charge mechanism under Section 10 of the VAT Act and confirms that VAT liability arises at the point of supply, not upon payment.

However, the Tribunal also demonstrated a commitment to strict statutory interpretation by setting aside the 150% penalty imposed under Section 34 and directing the Respondent to apply the correct penalty regime under Section 19. This aspect of the judgment serves as a warning to tax authorities against conflating distinct statutory regimes and reinforces the principle that penal provisions in tax statutes must be construed strictly.

This decision aligns with the broader judicial trend of substance-over-form analysis in tax matters and reinforces the constitutional imperative for all entities benefiting from services consumed in Nigeria to contribute their fair share to the national treasury. Multinational groups operating shared services arrangements in Nigeria must now carefully review their cross-border service flows to ensure compliance with the VAT Act, particularly with respect to the reverse charge mechanism and the timing of VAT liability.

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