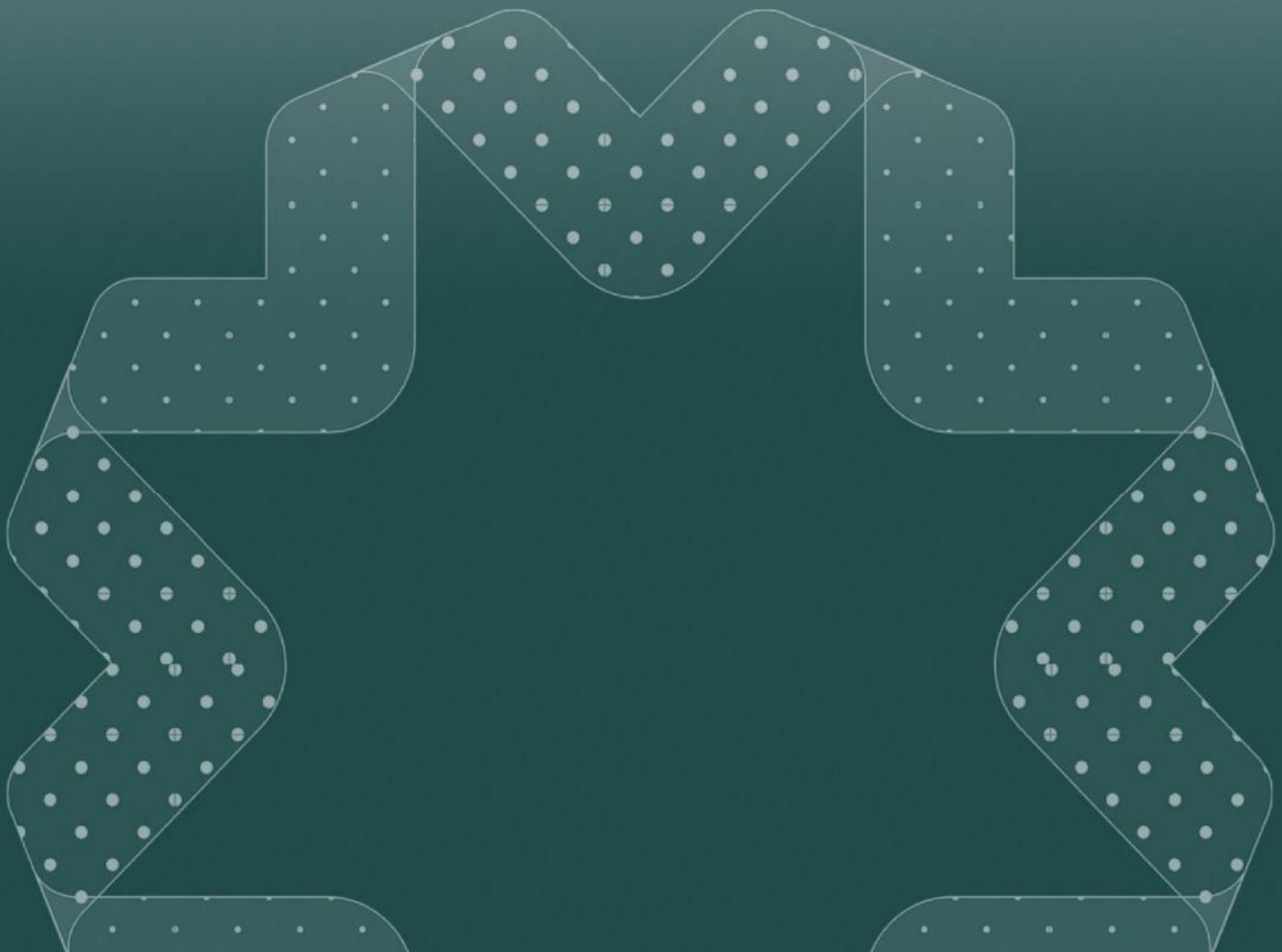
الأمانة العامة للجان الزكوية والضريبية والجمركية
General Secretariat of Zakat, Tax and Customs Committees

Tax Committees Decisions for 2022 AD
Value Added Tax and Excise Tax
Volume (2)



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In the Name of Allah, Most Gracious, Most Merciful

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Value-Added Tax

Tax Violations and Disputes Settlement Committee
First Department to Adjudicate Value Added Tax Violations and Disputes In Dammam

Decision No. VD-2022-768
Case No. V-69246-2021

Key words:
Value Added Tax - Field Detection Fine - Fine for not having a VAT Account Number - Cancellation of Fine

Abstract

The Taxpayer initiated this case moving to cancel ZATCA's decision to impose a Field Detection fine of SAR 10,000 for not having a VAT Account Number. The Department, having found that the case file included no indication that the Taxpayer had previously been penalized or an undertaking was taken from him, the Department concludes that the Taxpayer has benefited from this decision and that the decision is considered an undertaking from him, whereby he would be penalized if he returns to committing the same violation within the specified periods. Accordingly, the Department decided to accept the Taxpayer's case and cancel the fine for the grounds stated.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article 48 of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly)

Facts:

Facts of the case are summarized that ....., holder of National ID number (.....), in his capacity as the Owner of ..... Establishment, C.R. No..... filed a statement of claims that included an objection to the Defendant's decision to impose the field detection fine No. ..... dated 04/05/2021 AD in the amount of SAR 10,000 for the absence of VAT Account Number requesting that the fine be canceled.

Having presented the statement of claims to the Defendant, it responded as follows: On 04/05/2021, ZATCA's representatives visited the Plaintiff's site and examined the simplified invoices he submitted during the field inspection to ensure the proper application of the Value Added Tax Law and its Implementing Regulations. After inspection, it was found that they violated the simplified invoices requirements set forth in Article 53.8(b) of the Implementing Regulations of the Value Added Tax Law, which states "b) the name, address and Tax Identification Number of the Supplier". After verifying that the Plaintiff had violated the Value Added Tax Law and its Implementing Regulations as stated above, ZATCA imposed a fine of SAR 10,000 based on Article 45.3 of the Value Added Tax Law, which states "A fine not exceeding 50,000 riyals shall be

imposed on any person who: 3. violates any other provision of the Law or the Regulations". The Defendant's representative concluded his Reply with a motion to dismiss the case.
On Tuesday, 29/03/2022 AD, a session was held in accordance with the Remote Litigation Procedures. For the Plaintiff appeared Mr....., National ID No....., in his capacity as the attorney for the Plaintiff under POA No. ..... For the Defendant appeared Mr....., holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), Dated 23/12/1442 AH issued by ZATCA's Deputy Governor for Legal Affairs. Having asked the Plaintiff regarding his case, he maintained the same claims included in his statement of claims filed with the General Secretariat of Tax Committees. Then having asked the Defendant for his reply, he referred to the Reply he has submitted. When asking both litigants if they had any other statements, they responded that they are satisfied with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation in preparation for delivering its decision.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.
In Form:
Since the Plaintiff instituted his Case moving to cancel the Defendant's decision to impose a field detection fine of SAR 10,000 for not having a VAT account number based on the Value Added Tax Law and its Implementing Regulations, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Tax Violations and Disputes Committee pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form.
On Merits:
Having examined the case papers and the response of both parties, it is established that the Plaintiff requests that the field detection fine imposed by the Defendant be canceled. The Board of Directors of ZATCA has issued a decision effective from 30/01/2022 AD, which provided, among other things, that the violations and their fines be re-classified. Now there is now a gradation of violations related to field inspections and electronic invoicing. A warning is served to the Taxpayer for the first violation and the penalty is escalated in case of repetition of violation. Since the board is authorized by law to issue such decision, and given that the new modification is considered more favorable to the violator; and given that the decision aims to achieve one of the objectives of the law, especially the provision of Article 48, which called for alignment between the violation and the penalty, as well as the gradation of fines and warning before imposing a penalty.
Although the general rule is that no law shall have retroactive effect, there are exceptions to this rule, including the issuance of a law more favorable to the accused, as in this case, which has not yet been finally decided; and since the case file is devoid of any evidence indicating prior fines of the Plaintiff or any undertaking taken from him, this Department concludes to consider the penalty issued as a warning to the Plaintiff that if he re-committed the same violation within the prescribed period, he will be subject to a stricter penalty.
Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department after deliberation unanimously decided to:

Decision:

Accept the Plaintiff's case and cancel the fine for the grounds stated.

This decision was issued in the presence of both litigants, and Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Key words:
Value Added Tax - Field Detection Fine - Fine for not having a VAT Account Number - Cancellation of Fine

Abstract

The Taxpayer initiated this case moving to cancel ZATCA's decision to impose a Field Detection fine of SAR 10,000 for not having a VAT Account Number. The Department, having found that the case file included no indication that the Taxpayer had previously been penalized or an undertaking was taken from him, the Department concludes that the Taxpayer has benefited from this decision and that the decision is considered an undertaking from him, whereby he would be penalized if he returns to committing the same violation within the specified periods. Accordingly, the Department decided to accept the Taxpayer's case and cancel the fine for the grounds stated.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article 48 of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly)

Facts:

Facts of the case are summarized that ....., holder of National ID number (.....), in his capacity as the Owner of ..... Establishment, C.R. No..... filed a statement of claims that included an objection to the Defendant's decision to impose the field detection fine No. ..... dated 10/06/2021 AD in the amount of SAR 10,000 for the absence of VAT Account Number requesting that the fine be canceled.

Having presented the statement of claims to the Defendant, it responded as follows: On 10/06/2021, ZATCA's representatives visited the Plaintiff's site and examined the simplified invoices he submitted during the field inspection to ensure the proper application of the Value Added Tax Law and its Implementing Regulations. After inspection, it was found that they violated the simplified invoices requirements set forth in Article 53.8(b) of the Implementing Regulations of the Value Added Tax Law. ZATCA imposed a fine of SAR 10,000 based on Article 45.3 of the Value Added Tax Law, which states "A fine not exceeding 50,000 riyals shall be imposed on any person who:

3. violates any other provision of the Law or the Regulations". The Defendant's representative concluded his Reply with a motion to dismiss the case."

On Sunday, 27/03/2022 AD, , a session was held in accordance with the Remote Litigation Procedures. For the Plaintiff appeared Mr....., holder of National ID No. (...), in his capacity as the attorney for the Plaintiff under POA No. ..... For the Defendant appeared Mr....., holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated 23/12/1442 AH issued by ZATCA's Deputy Governor for Legal Affairs. Having asked the Plaintiff regarding his case, he maintained the same claims included in his statement of claims filed with the General Secretariat of Tax Committees. Then having asked the Defendant for his reply, he referred to the Reply he has submitted. When asking both litigants if they had any other statements, they responded that they are satisfied with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation in preparation for delivering its decision.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form:

Since the Plaintiff instituted his Case moving to cancel the Defendant's decision to impose a field detection fine of SAR 10,000 for not having a VAT account number based on the Value Added Tax Law and its Implementing Regulations, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Tax Violations and Disputes Committee pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form.

On Merits: Having examined the case papers and the response of both parties, it is established that the Plaintiff requests that the field detection fine imposed by the Defendant be canceled. The Board of Directors of ZATCA has issued a decision effective from 30/01/2022 AD, which provided, among other things, that the violations and their fines be re-classified. Now there is now a gradation of violations related to field inspections and electronic invoicing. A warning is served to the Taxpayer for the first violation and the penalty is escalated in case of repetition of violation. Since the board is authorized by law to issue such decision, and given that the new modification is considered more favorable to the violator; and given that the decision aims to achieve one of the objectives of the law, especially the provision of Article 48, which called for alignment between the violation and the penalty, as well as the gradation of fines and warning before imposing a penalty.

Although the general rule is that no law shall have retroactive effect, there are exceptions to this rule, including the issuance of a law more favorable to the accused, as in this case, which has not yet been finally decided; and since the case file is devoid of any evidence indicating prior fines of the Plaintiff or any undertaking taken from him, this Department concludes to consider the penalty issued as a warning to the Plaintiff that if he re-committed the same violation within the prescribed period, he will be subject to a stricter penalty.

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

Decision:

Accept the Plaintiff's case and cancel the fine for the grounds stated.

This decision was issued in the presence of both litigants, and Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems

appropriate. Any litigant may appeal the decision within 30 days from the day following specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Key words:
Value Added Tax - Field Detection Fine - Fine for not having a VAT Account Number - Cancellation of Fine

Abstract

The Taxpayer initiated this case moving to cancel ZATCA's decision to impose a Field Detection fine of SAR 10,000 for not having a VAT Account Number. The Department, having found that the case file included no indication that the Taxpayer had previously been penalized or an undertaking was taken from him, the Department concludes that the Taxpayer has benefited from this decision and that the decision is considered an undertaking from him, whereby he would be penalized if he returns to committing the same violation within the specified periods. Accordingly, the Department decided to accept the Taxpayer's case and cancel the fine for the grounds stated.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article 48 of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly)

Facts:

Facts of the case are summarized that ....., holder of National ID number (.....), in his capacity as the Owner of ..... Food Establishment, C.R. No..... filed a statement of claims that included an objection to the Defendant's decision to impose the field detection fine No. ..... dated 13/07/2021 AD in the amount of SAR 10,000 for the absence of VAT Account Number requesting that the fine be canceled.

Having presented the statement of claims to the Defendant, it responded as follows: On 21/06/2021, ZATCA's representatives visited the Plaintiff's site and examined the simplified invoices he submitted during the field inspection to ensure the proper application of the Value Added Tax Law and its Implementing Regulations. After inspection, it was found that they violated the simplified invoices requirements set forth in Article 53.8(b) of the Implementing Regulations of the Value Added Tax Law, which states "b) the name, address and Tax Identification Number of the Supplier". After verifying that the Plaintiff had violated the Value Added Tax Law and its Implementing Regulations as stated above, ZATCA imposed a fine of SAR 10,000 based on Article 45.3 of the Value Added Tax Law, which states "A fine not exceeding 50,000 riyals shall be

imposed on any person who: 3. violates any other provision of the Law or the Regulations". The Defendant's representative concluded his Reply with a motion to dismiss the case.
On Sunday, 27/03/2022 AD, a session was held in accordance with the Remote Litigation Procedures. For the Plaintiff appeared Mr....., holder National ID number (...), attended the session in his own behalf as Plaintiff, and Mr....., holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated 23/12/1442 AH issued by ZATCA's Deputy Governor for Legal Affairs. Having asked the Plaintiff regarding his case, he maintained the same claims included in his statement of claims filed with the General Secretariat of Tax Committees. Then having asked the Defendant for his reply, he referred to the Reply he has submitted. When asking both litigants if they had any other statements, they responded that they are satisfied with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation in preparation for delivering its decision.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.
In Form:
Since the Plaintiff instituted his Case moving to cancel the Defendant's decision to impose a field detection fine of SAR 10,000 for not having a VAT account number based on the Value Added Tax Law and its Implementing Regulations, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Tax Violations and Disputes Committee pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form.
On Merits:
Having examined the case papers and the response of both parties, it is established that the Plaintiff requests that the field detection fine imposed by the Defendant be canceled. The Board of Directors of ZATCA has issued a decision effective from 30/01/2022 AD, which provided, among other things, that the violations and their fines be re-classified. Now there is now a gradation of violations related to field inspections and electronic invoicing. A warning is served to the Taxpayer for the first violation and the penalty is escalated in case of repetition of violation. Since the board is authorized by law to issue such decision, and given that the new modification is considered more favorable to the violator; and given that the decision aims to achieve one of the objectives of the law, especially the provision of Article 48, which called for alignment between the violation and the penalty, as well as the gradation of fines and warning before imposing a penalty.
Although the general rule is that no law shall have retroactive effect, there are exceptions to this rule, including the issuance of a law more favorable to the accused, as in this case, which has not yet been finally decided; and since the case file is devoid of any evidence indicating prior fines of the Plaintiff or any undertaking taken from him, this Department concludes to consider the penalty issued as a warning to the Plaintiff that if he re-committed the same violation within the prescribed period, he will be subject to a stricter penalty.
Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department after deliberation unanimously decided to:

Decision:

Accept the Plaintiff's case and cancel the fine for the grounds stated.

This decision was issued in the presence of both litigants, and Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Key words:
Value Added Tax - Failure to Clarify Payable Tax - Field Detection Fine - Cancellation of Fine

Abstract

The Taxpayer initiated this case moving to cancel ZATCA's decision to impose a Field Detection fine of SAR 10,000 for not clarifying the tax payable. The Department, having found that the case file included no indication that the Taxpayer had previously been penalized or an undertaking was taken from him, the Department concludes that the Taxpayer has benefited from this decision and that the decision is considered an undertaking from him, whereby he would be penalized if he returns to committing the same violation within the specified periods. Accordingly, the Department decided to accept the Taxpayer's case and cancel the fine for the grounds stated.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article 48 of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly) No. (3839) dated 14/12/1438 AH corresponding to 14/11/2016 AD

Facts:

Facts of the case are summarized that ....., holder of National ID number (.....), in his capacity as the Owner of ..... Food Establishment, C.R. No..... filed a statement of claims that included an objection to the Defendant's decision to impose the field detection fine No. ..... dated 21/06/2021 AD in the amount of SAR 10,000 for not clarify the tax payable requesting that the fine be canceled.

Having presented the statement of claims to the Defendant, it responded as follows: On 06/06/2021, ZATCA's representatives visited the Plaintiff's site and examined the simplified invoices he submitted during the field inspection to ensure the proper application of the Value Added Tax Law and its Implementing Regulations. After inspection, it was found that they violated the simplified invoices requirements set forth in Article 53.8(b) of the Implementing Regulations of the Value Added Tax Law. ZATCA imposed a fine of SAR 10,000 based on Article 45.3 of the Value Added Tax Law, which states "A fine not exceeding 50,000 SAR shall be imposed on any person who: 3. violates any other provision of the Law or the Regulations". The Defendant's representative concluded his Reply with a motion to dismiss the case.

On Sunday, 27/03/2022 AD, a session was held in accordance with the Remote Litigation Procedures. For the Plaintiff appeared the Plaintiff Mr....., National ID No..... in person. For the Defendant appeared Mr.....,

holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated 23/12/1442 AH issued by ZATCA's Deputy Governor for Legal Affairs. Having asked the Plaintiff regarding his case, he maintained the same claims included in his statement of claims filed with the General Secretariat of Tax Committees. Then having asked the Defendant for his reply, he referred to the Reply he has submitted. When asking both litigants if they had any other statements, they responded that they are satisfied with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation in preparation for delivering its decision.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the Plaintiff instituted his Case moving to cancel the Defendant's decision to impose a field detection fine of SAR 10,000 for not clarifying the tax payable based on the Value Added Tax Law and its Implementing Regulations, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Tax Violations and Disputes Committee pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form.

On Merits: Having examined the case papers and the response of both parties, it is established that the Plaintiff requests that the field detection fine imposed by the Defendant be canceled. The Board of Directors of ZATCA has issued a decision effective from 30/01/2022 AD, which provided, among other things, that the violations and their fines be re-classified. Now there is now a gradation of violations related to field inspections and electronic invoicing. A warning is served to the Taxpayer for the first violation and the penalty is escalated in case of repetition of violation. Since the board is authorized by law to issue such decision, and given that the new modification is considered more favorable to the violator; and given that the decision aims to achieve one of the objectives of the law, especially the provision of Article 48, which called for alignment between the violation and the penalty, as well as the gradation of fines and warning before imposing a penalty. Although the general rule is that no law shall have retroactive effect, there are exceptions to this rule, including the issuance of a law more favorable to the accused, as in this case, which has not yet been finally decided; and since the case file is devoid of any evidence indicating prior fines of the Plaintiff or any undertaking taken from him, this Department concludes to consider the penalty issued as a warning to the Plaintiff that if he re-committed the same violation within the prescribed period, he will be subject to a stricter penalty.

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

Decision:

Accept the Plaintiff's case and cancel the fine for the grounds stated.

This decision was issued in the presence of both litigants, and Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems

appropriate. Any litigant may appeal the decision within 30 days from the day following specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes
First First Department to Adjudicate Value Added Tax Violations and Disputes in Dammam

Decision No. VD-2022-772
Case No. V-64799-2021

Key words:
Value Added Tax - Field Detection Fine - Fine for not Providing Establishment Address - Cancellation of Fine

Abstract

The Taxpayer initiated this case moving to cancel ZATCA's decision to impose a Field Detection fine of SAR 10,000 for not providing an address for the establishment. The Department, having found that the case file included no indication that the Taxpayer had previously been penalized or an undertaking was taken from him, the Department concludes that the Taxpayer has benefited from this decision and that the decision is considered an undertaking from him, whereby he would be penalized if he returns to committing the same violation within the specified periods. Accordingly, the Department decided to accept the Taxpayer's case and cancel the fine for the grounds stated.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article 48 of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly)

Facts:

The facts of this case are summed up in that Mr....., holder of Iqama ID No. ....., in his capacity as the owner of ..... Catering Services, C.R. No..... filed a statement of claims that included an objection to the Defendant's decision to impose the field detection fine No. ..... dated 11/04/2021 AD in the amount of SAR 10,000 for the absence of VAT Account Number requesting that the fine be canceled.

Having presented the statement of claims to the Defendant, it responded as follows: On 30/03/2021, ZATCA's representatives visited the Plaintiff's site and examined the simplified invoices he submitted during the field inspection to ensure the proper application of the Value Added Tax Law and its Implementing Regulations. After inspection, it was found that they violated the simplified invoices requirements set forth in Article 53.8(b) of the Implementing Regulations of the Value Added Tax Law. ZATCA imposed a fine of SAR 10,000 based on Article 45.3 of the Value Added Tax Law, which states "A fine not exceeding 50,000 riyals shall be imposed on any person who: 3. violates any other provision of the Law or the Regulations". The Defendant's representative concluded his Reply with a motion to dismiss the case."

On Sunday, 27/03/2022 AD, , a session was held in accordance with the Remote Litigation Procedures. The Plaintiff failed to appear despite being duly notified of the timing and format of session, while for the Defendant appeared Mr..... holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated 23/12/1442 AH issued by ZATCA's Deputy Governor for Legal Affairs. Having asked the Defendant's representative about his reply, he requested that the Department proceed with the case and deliver its decision. Accordingly, the Department decided to adjourn the session for delivering its decision.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form:

Since the Plaintiff instituted his Case moving to cancel the Defendant's decision to impose a field detection fine of SAR 10,000 for not providing an address for the establishment based on the Value Added Tax Law and its Implementing Regulations, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Tax Violations and Disputes Committee pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form.

On Merits:

Having examined the case papers and the response of both parties, it is established that the Plaintiff requests that the field detection fine imposed by the Defendant be canceled. The Board of Directors of ZATCA has issued a decision effective from 30/01/2022 AD, which provided, among other things, that the violations and their fines be re-classified. Now there is now a gradation of violations related to field inspections and electronic invoicing. A warning is served to the Taxpayer for the first violation and the penalty is escalated in case of repetition of violation. Since the board is authorized by law to issue such decision, and given that the new modification is considered more favorable to the violator; and given that the decision aims to achieve one of the objectives of the law, especially the provision of Article 48, which called for alignment between the violation and the penalty, as well as the gradation of fines and warning before imposing a penalty. Although the general rule is that no law shall have retroactive effect, there are exceptions to this rule, including the issuance of a law more favorable to the accused, as in this case, which has not yet been finally decided; and since the case file is devoid of any evidence indicating prior fines of the Plaintiff or any undertaking taken from him, this Department concludes to consider the penalty issued as a warning to the Plaintiff that if he re-committed the same violation within the prescribed period, he will be subject to a stricter penalty.

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

Decision:

Accept the Plaintiff's case and cancel the fine for the grounds stated.

This decision was issued in the presence of both litigants, and Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Key words:
Value Added Tax - Late Registration Fine - Cancellation of Fine

Abstract

The Taxpayer initiated this case moving to cancel ZATCA's decision to impose a late registration fine for the value added tax in the amount of SAR 10,000 requesting that the fine be dropped. The Department found that there are contracts on Ejar platform bearing a VAT Account Number different from the Taxpayer's VAT Account Number, which supports his statement that the contracts belong to his father and uncle, and ZATCA did not oppose that. Accordingly, this Department ruled to accept the Taxpayer's claim and cancel the late registration fine.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article 76(b) of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- Article 68.1 of the The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly) No. (3839) dated 14/12/1438 AH corresponding to 14/11/2016 AD

Facts:

The facts of this case are summed up in that Mr...., national ID No. ....., initiated this case objecting to the Defendant's decision to impose a late registration fine No..... dated 01/07/2021 for value added tax in the amount of SAR 10,000 requesting that the fine be canceled.
Having presented the statement of claims to the Defendant, it responded as follows: Article 3 of the Implementing Regulations of the Value Added Tax Law stipulates that "For registration purposes, every Resident Person in the Kingdom who is not registered by the Authority must at the end of each month calculate the value of his Supplies made in the Kingdom within the twelve months then ended, in accordance with the requirements set out in the Agreement. In cases where this value exceeds the Mandatory Registration Threshold detailed in the Agreement, the Person must apply to the Authority to register within thirty (30) days of the end of that month pursuant to Article eight of these Regulations". Moreover, Article 6 of the Implementing Regulations of the Value Added Tax Law provides that "Where the Person has failed to make an application to the Authority as prescribed in these Regulations, the Authority may register such Person without submitting any application and such registration shall take effect from the relevant date prescribed under Articles three and four of these Regulations". Article 56 of the Implementing Regulations of the Value Added Tax Law also authorized ZATCA to have access directly and on an ongoing basis to the information related to the tax that is kept by a third party. Then, having referred to

the Plaintiff's data on Ejar Platform, it was found that he had exceeded the mandatory registration period. 3. Accordingly, the imposition of a late registration fine is legally sound based on Article 41 of the Value Added Tax Law, which stipulates that "Any person who fails to apply for registration within the periods specified in the Regulations shall be subject to a fine of 10,000 SAR." Based on the above, ZATCA pleads that the case be dismissed and that its decision be confirmed, while reserving its right to submit further responses and clarifications before closing the pleadings.

On Wednesday, 06/04/2022 AD, a session was held in accordance with the Remote Litigation Procedures. Both parties wished to proceed with the case. The Plaintiff ....., ID No..... appeared on his own behalf. For the Defendant appeared Mr..... holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated 23/12/1442 AH issued by the Deputy Governor for Legal Affairs. Having asked the Plaintiff regarding his case, they responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, and upon asking the Defendant about his reply, he also maintained his statements contained in the submitted Reply. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Therefore, the Department ordered that parties to the Case temporarily leave the virtual room for deliberation and adjudication.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the Plaintiff instituted his Case moving to cancel the Defendant's decision to impose a late registration fine for ZAT, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Tax Violations and Disputes Committee pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form.

On Merits: Having examined the case papers and the submissions of its parties, it is found that the Plaintiff requested that the Defendant cancels the late registration fine for the value-added tax; and since the administrative decisions issued by the Defendant are subject to judicial oversight according to Article 68.1 of the Implementing Regulations of the Value-Added Tax Law and Article 76(b) of the Income Tax Law amended by Royal Decree No. (M/113) in order to be validated in terms of compliance with law. If an administrative decision lacks a valid basis or has defects, it may be annulled. Legal doctrine states that such a decision must be based on a justifiable ground, which is a factual occurrence that leads to the decision. If this ground is absent or unclear, the decision is flawed due to a lack of basis and should be canceled. Since the Plaintiff claims to be an attorney entrusted with managing his father's property, and that the taxes on rentals paid are paid through his father's account; and since there are contracts on Ejar platform with a different tax number than the Plaintiff's, supporting his claim about the contracts being linked to his father and uncle and given that ZATCA did not refute this, this Department ruled to cancel the fine imposed on the Plaintiff. Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department after deliberation unanimously decided to:

Decision:

Accept the Case filed by Plaintiff and cancel the late registration fine.

The decision was made in the presence of both parties, and the Department has allocated thirty days for receipt of decision copy. The Department may extend this period by an additional thirty days if necessary. According to Article (42) of the Rules of Tax Dispute and Violation Committee Procedures, this decision shall be deemed final and enforceable.

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

Key words:
Value Added Tax - Late Registration Fine - Cancellation of Fine

Abstract

The Taxpayer requests that ZATCA's decision regarding the imposition of a late registration fine for value-added tax in the amount of SAR 10,000 be cancelled. The Department found that the Defendant did not provide the Department with evidence that the Taxpayer exceeded the mandatory registration threshold. Accordingly, this Department ruled to accept the Taxpayer's claim and cancel the late registration fine.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly)

Facts:

The facts of this case are summed up in that Mr....., National ID No. ..., in his capacity as the owner of ..... establishment, Commercial Registration No. ....., filed a statement of appeal, objecting to the decision of the Defendant, ZATCA, regarding the imposition of a late registration fine for Value Added Tax, No. ..... Dated 22/06/2021 in the amount of SAR 10,000 requesting that the fine be canceled.

Having presented the statement of claims to the Defendant, it responded as follows: Article 3 of the Implementing Regulations of the Value Added Tax Law stipulates that "For registration purposes, every Resident Person in the Kingdom who is not registered by the Authority must at the end of each month calculate the value of his Supplies made in the Kingdom within the twelve months then ended, in accordance with the requirements set out in the Agreement. In cases where this value exceeds the Mandatory Registration Threshold detailed in the Agreement, the Person must apply to the Authority to register within thirty (30) days of the end of that month pursuant to Article eight of these Regulations". Moreover, Article 6 of the Implementing Regulations of the Value Added Tax Law provides that "Where the Person has failed to make an application to the Authority as prescribed in these Regulations, the Authority may register such Person without submitting any application and such registration shall take effect from the relevant date prescribed under Articles three and four of these Regulations". Article 56 of the Implementing Regulations of the Value Added Tax Law also authorized ZATCA to have access directly and on an ongoing basis to the information related to the tax that is kept by a third party. Having referred to the

Plaintiff's information with the Saudi Central Bank, it was found that he had exceeded the mandatory registration threshold. 3- Based on the above, the imposition of a late registration fine is legally valid, pursuant to Article (41) of the Value Added Tax Law, which stipulates that "Any person who fails to apply for registration within the periods specified in the Regulations shall be subject to a fine of 10,000 riyals." Based on the above, ZATCA requested a ruling to dismiss the case and uphold ZATCA's decision in the case. ZATCA also reserved the right to submit further responses and clarifications before the closing of the pleadings.

On Wednesday, 06/04/2022 AD, the Department held a session via video conference in accordance with remote litigation procedures. At this session, Defendant appeared. However, Plaintiff did not appeared despite being duly served a notice. In addition, Defendant's attorney ....., holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated …/10/1443 AH issued by the Deputy Governor for Legal Affairs. Having presented the case to him, he requested that the Department proceed with the case and issue a ruling. After reviewing the case and the documents submitted, and since the case was found to be ripe for adjudication and having terminated the participation of the attendees for deliberation pursuant to the law and its implementing regulations, the Department decided to close the pleadings and deliberations.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the Plaintiff instituted his Case moving to cancel the Defendant's decision to impose a late registration fine for ZAT, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Tax Violations and Disputes Committee pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form.

On Merits: Having examined the case documents and the responses of both parties, the Department found that the Plaintiff requested that the Defendant cancel the late registration fine for value-added tax. Since the Defendant did not provide the Department with evidence that the Plaintiff had exceeded the mandatory registration threshold or the date of that exceedance, the Department did not have sufficient certainty to impose the fine. Therefore, the Department concluded that the fine imposed on the Plaintiff was invalid. Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department after deliberation unanimously decided to:

Decision:

To accept the Plaintiff case and cancel the Defendant's decision subject of the case.

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 which may be extended for an additional period as the Department deems appropriate. 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 upon all his Family and Companions.

Key words:
Value Added Tax - Late Registration Fine - Cancellation of Fine

Abstract

The Taxpayer requested that ZATCA's decision regarding the imposition of a late registration fine for value-added tax in the amount of SAR 10,000 be cancelled, requesting that the fine be cancelled. The Department established that the Taxpayer should not be subject to the late registration fine due to the fact that the effective date of registration precedes the date of the e-contract subject matter of the case. Accordingly, this Department ruled to accept the Taxpayer's claim and cancel the late registration fine.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly)

Facts:

The facts of this case are summed up in that Mr....., National ID No. ....., filed a statement of claims, objecting to the decision of the Defendant, ZATCA, regarding the imposition of a late registration fine for Value Added Tax, No. ..... Dated 23/06/2021 in the amount of SAR 10,000 requesting that the fine be canceled.

Having presented the statement of claims to the Defendant, it responded as follows: "After reviewing the Plaintiff's statement of claims submitted before your esteemed committee, which included the Plaintiff's objection to ZATCA's decision to impose a late registration fine, we respond as follows:

First: 1. Decision is presumed to be valid and sound, and whoever claims otherwise shall provide proof supporting his claims. Second: Having referred to the Plaintiff's date with ZATCA, it was found that the first registration for Value Added Tax was through an inspection campaign by ZATCA, and the registration was made according to the lease contracts as per Article (50.2) of the Common VAT Agreement for GCC states, which states that "the mandatory registration threshold shall be 375,000 Saudi Riyals". Moreover, Article (79.9) of the Implementing Regulations of the Value Added Tax Law states that "Notwithstanding any other provision of the Law and these Regulations a Person whose value of annual Supplies exceeds the Mandatory Registration Threshold but does not exceed one million (1,000,000) SAR is exempted from the requirement to register in the Kingdom until 1 January 2019. However, any application for such registration must

be submitted that on or before 20 December 2018". Then by referring to the Plaintiff's contract data, it appears that the total annual value of the Plaintiff's contracts is higher than the mandatory registration threshold. Based on the above, ZATCA maintains the validity of its decision in the case by imposing a late registration fine, pursuant to Article (41) of the Value Added Tax Law, which stipulates that "Any person who fails to apply for registration within the periods specified in the Regulations shall be subject to a fine of 10,000 riyals." Third: Requests: Based on the above, ZATCA requested the Honorable Committee to dismiss the case for the grounds stated above and uphold ZATCA procedures subject of the case. Also, ZATCA reserves the right to provide further replies and clarifications until closing of the pleadings.

On Wednesday, 06/04/2022 AD, the Department held a session via video conference in accordance with remote litigation procedures. At this session, Defendant appeared. However, Plaintiff did not appeared despite being duly served a notice. In addition, Defendant's attorney ....., holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated …/10/1443 AH issued by the Deputy Governor for Legal Affairs. Having presented the case to him, he requested that the Department proceed with the case and issue a ruling. After reviewing the case and the documents submitted, and since the case was found to be ripe for adjudication and having terminated the participation of the attendees for deliberation pursuant to the law and its implementing regulations, the Department decided to close the pleadings and deliberations

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the Plaintiff instituted his Case moving to cancel the Defendant's decision to impose a late registration fine for ZAT, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Tax Violations and Disputes Committee pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form.

On Merits: Having reviewed the case documents and the arguments made by its parties, it was found that that the Plaintiff requests that the Defendant cancel the late registration fine for value-added tax. The Plaintiff requested registration from the Defendant when he exceeded the mandatory registration threshold, which resulted from leasing out a warehouse for SAR 400,000. The Department reviewed the e-contract No. ..... attached by the Plaintiff, which indicated that the Plaintiff leased a property to the lessee/branch of ..... Company, for a rental value of (400,000) annually for a period of 3 years. The contract was concluded on 06/09/2020, and the lease term began on 10/08/2020. The Department, having reviewed the Defendant's Reply, which indicated that the late registration fine was issued based on the Plaintiff's lease contract based on the same e-contract No. ....., and having reviewed the Plaintiff's VAT registration certificate, found that the effective date of registration was 01/02/2020 and that the due date for the first tax return was 30/04/2020. Accordingly, the Department finds that the Plaintiff should not be subject to a late registration fine because the effective date of registration precedes the date of the e-contract relied upon by both parties. Therefore, the Department concludes that the fine imposed on the Plaintiff is invalid. Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department after deliberation unanimously decided to:

Decision:

To accept the Plaintiff case and cancel the Defendant's decision subject of the case.
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 which may be extended for an additional period as the Department deems appropriate. 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 upon all his Family and Companions.

Key words:
Value Added Tax - Late Registration Fine - Cancellation of Fine

Abstract

The Taxpayer instituted this case moving to cancel ZATCA's decision regarding the imposition of a late registration fine for value-added tax in the amount of SAR 10,000, and to cancel that fine. The Department found that the Taxpayer did not provide evidence to refute the accusation that he exceeded the mandatory registration period. Therefore, the Department ruled to dismiss the Taxpayer's case.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly)

Facts:

The facts of this case are summed up in that Mr ....., national ID No....., in his capacity as owner of ..... Telecommunications Company, Commercial Registration No. ....., filed a statement of claim, which included his objection to the decision of the Defendant, ZATCA, regarding the imposition of a late registration fine for Value Added Tax, No. ..... Dated 14/07/2021 in the amount of SAR 10,000 requesting that the fine be canceled.

Having presented the statement of claims to the Defendant, it responded as follows: Article 3 of the Implementing Regulations of the Value Added Tax Law stipulates that "For registration purposes, every Resident Person in the Kingdom who is not registered by the Authority must at the end of each month calculate the value of his Supplies made in the Kingdom within the twelve months then ended, in accordance with the requirements set out in the Agreement. In cases where this value exceeds the Mandatory Registration Threshold detailed in the Agreement, the Person must apply to the Authority to register within thirty (30) days of the end of that month pursuant to Article eight of these Regulations". Moreover, Article 6 of the Implementing Regulations of the Value Added Tax Law provides that "Where the Person has failed to make an application to the Authority as prescribed in these Regulations, the Authority may register such Person without submitting any application and such registration shall take effect from the relevant date prescribed under Articles three and four of these Regulations". Article 56 of the Implementing Regulations of the Value Added Tax Law also authorized ZATCA to have access directly and on an ongoing

basis to the information related to the tax that is kept by a third party. Having referred to the Plaintiff's information with the Saudi Central Bank, it was found that he had exceeded the mandatory registration threshold. 3- Based on the above, the imposition of a late registration fine is legally valid, pursuant to Article (41) of the Value Added Tax Law, which stipulates that "Any person who fails to apply for registration within the periods specified in the Regulations shall be subject to a fine of 10,000 riyals." Based on the above, ZATCA requested a ruling to dismiss the case and uphold ZATCA's decision in the case. ZATCA also reserved the right to submit further responses and clarifications before the closing of the pleadings.

On Wednesday, 06/04/2022 AD, the Department held a session via video conference in accordance with remote litigation procedures. At this session, Defendant appeared. However, Plaintiff did not appeared despite being duly served a notice. In addition, Defendant's attorney ....., holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated …/10/1443 AH issued by the Deputy Governor for Legal Affairs. Having presented the case to him, he requested that the Department proceed with the case and issue a ruling. After reviewing the case and the documents submitted, and since the case was found to be ripe for adjudication and having terminated the participation of the attendees for deliberation pursuant to the law and its implementing regulations, the Department decided to close the pleadings and deliberations.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the Plaintiff instituted his Case moving to cancel the Defendant's decision to impose a late registration fine for ZAT, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Tax Violations and Disputes Committee pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form.

On Merits: The Department, having examined the case documents and the arguments submitted by its parties found that the Plaintiff request that the Defendant cancel the late registration fine for Value Added Tax. The Plaintiff did not dispute that he had reached the mandatory registration threshold and did not provide evidence to refute the allegation that he had exceeded the mandatory registration period. Thus, the Department concluded to dismiss its case.

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

Decision:

To dismiss Plaintiff case.

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 which may be extended for an additional period as the Department deems appropriate. 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 upon all his Family and Companions.

Key words:
Value Added Tax - Tax Collection Fine - Field Detection Fine - Dismissal of the Case

Abstract

The Taxpayer requested to cancel ZATCA's decision regarding the imposition of a tax collection fine in the name of another Taxpayer, in the amount of SAR 10,000, requesting that the fine be cancelled. After reviewing the attachments to the case, the Department found no justification for collecting the tax from another taxpayer. Therefore, the Department concluded that the Defendant's decision in imposing the fine is valid. Therefore, the Department ruled to dismiss the Taxpayer's case.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly)

Facts:

The facts of this case are summed up in that Mr ....., national ID No....., in his capacity as owner of ..... Catering Services, C.R. No. (...), filed a statement of claims, whereby he objected to ZATCA's decision to impose a tax collection fine on another Taxpayer, No. ..... Dated 18/05/2021 in the amount of SAR 10,000 requesting that the fine be canceled.

Having presented the statement of claims to the Defendant, it responded as follows: "On 18/05/2021, ZATCA's representatives visited the Plaintiff's premises to verify the application of the tax provisions. After inspection, it was found that the Plaintiff had violated the simplified invoice requirements stipulated in Article (53.8(b)) of the Implementing Regulations of Value Added Tax Law. After due verification, ZATCA imposed a fine on the Plaintiff in the amount of SAR 10,000, based on the provisions of Article (45.3) of the Value Added Tax Law. Based on the foregoing, ZATCA requests a ruling to dismiss the case and uphold ZATCA's decision in question. ZATCA also reserves the right to provide further responses and clarifications before the closing of the pleadings."

On Wednesday, 06/04/2022 AD, the Department held a session via video conference in accordance with remote litigation procedures. At this session, Defendant appeared. However, Plaintiff did not appeared despite being duly served a notice. In addition, Defendant's attorney ....., holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), Dated ../ /.. /.. dated ....., issued by Deputy Governor

for Legal Affairs. Given the Plaintiff's absence, the Defendant requested to proceed with the case and issue a decision. After reviewing the case and the documents submitted, and since the case was found to be ripe for adjudication and having terminated the participation of the attendees for deliberation pursuant to the law and its implementing regulations, the Department decided to close the pleadings and deliberations Decision.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since Plaintiff filed its case to request that Defendant decision be abolished related to the imposition of a tax collection fine in the name of another taxpayer. Since this 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: After examining the case documents and the arguments made by both parties, the Department found that the Plaintiff requested that the Defendant cancel the field detection fine. The Plaintiff explained in his statement of claims that he owns ..... according to the submitted commercial registration and that the ownership of the business had been transferred to another taxpayer. Upon reviewing the case attachments, the Department found no justification for collecting the tax in the name of another Taxpayer. Therefore, the Department finds the Defendant's action in imposing the fine valid. Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department after deliberation unanimously decided to:

Decision:

To dismiss Plaintiff case.

This decision was issued in the presence of both litigants, and Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Decision No. VD-2022-778
Case No. V-67738-2021

Key words:
Value Added Tax - Fine for Not Issuing a Tax Invoice - Field Detection Fine - Cancellation of Fine

Abstract

The Taxpayer instituted this case moving to cancel ZATCA's decision regarding imposing a fine for not issuing a tax invoice, in the amount of SAR 10,000, requesting that the fine be cancelled. The Department found that the case file was devoid of anything indicating that the Taxpayer had previously been penalized or that a pledge had been taken from him. Thus, the Department concluded that this violation should be penalized with an pledge taken from the Plaintiff, so that he would be subject to the fine if he repeated the violation within the specified statutory periods. Accordingly, the Department ruled to dismiss the Taxpayer's case and cancel the fine in question.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article (48) of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly)

Facts:

Facts of this case are as follows: Mr/....., holding National ID No. ....., in its capacity as Plaintiff attorney ....., holding National ID No. ....., in his capacity as the owner of ..... Poultry Company, Commercial Registration No. ....., under Power of Attorney No. ....., filed a statement of claims objecting to the Defendant's decision, regarding the imposition of a fine for failure to issue a tax invoice, No. ..... Dated 12/04/2021 in the amount of SAR 10,000 requesting that the fine be canceled.

Having presented the statement of claims to the Defendant, it responded as follows: "On 12/04/2021, ZATCA's representatives visited the Plaintiff's premises to verify the application of the tax provisions. After inspection, it was found that the Plaintiff had violated Article (53.1) of the Implementing Regulations of Value Added Tax Law and Article (66) of the Implementing Regulations of the Value Added Law. After due verification, ZATCA imposed a fine on the Plaintiff in the amount of SAR 10,000, based on the provisions of Article (45.1) of the Value Added Tax Law. Based on the foregoing, ZATCA requests a ruling to dismiss the case and uphold ZATCA's decision in question. ZATCA also reserves the right to provide further responses and clarifications before the closing of the pleadings."

On Wednesday, 06/04/2022 AD, a session was held in accordance with the Remote Litigation Procedures. The Defendant was present, while the Plaintiff was not, despite being notified of the date and manner of conducting the session. The Defendant's Representative, ... holder of National ID No. (...), appeared in his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated …/10/1443 AH issued by the Deputy Governor for Legal Affairs. Haveing presented the case to him, he requested that the Department proceed with the case and issue a ruling. After reviewing the case and the documents submitted, and since the case was found to be ripe for adjudication and having terminated the participation of the attendees for deliberation pursuant to the law and its implementing regulations, the Department decided to close the pleadings and deliberations Decision.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since Plaintiff filed its case to request that Defendant decision be abolished related to the imposition of a fine for not issuing a tax invoice, and since this 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:

Upon reviewing the case file and the arguments made by both parties, it was found that the Plaintiff requests that the field detection fine be cancelled. It was established that the decision of the Board of Directors of ZATCA, effective as of January 30, 2022, includes the reclassification of violations and the penalties associated with them. A tiered approach has been introduced for violations related to field visits and electronic invoicing, where a warning is sufficient for the first-time violation, with penalties escalating for repeated offenses. The Board is authorized, under the law, to issue such decisions. Since the new amendment is considered a more lenient law for the violator, and the decision aims to achieve one of the objectives of the law, particularly the provision of Article 48, which calls for the alignment of the violation with the penalty and the necessity of escalating penalties while providing a warning before imposing any punishment. While the general rule is that the provisions of any law do not apply retroactively, exceptions to this rule exist, including the issuance of a more favorable law for the defendant, as is the case here, since a final, enforceable judgment has not been issued yet.

As the case file does not indicate that the Plaintiff has been previously penalized or given a pledge, the Department concludes that the Plaintiff benefits from this decision and that a pledge is taken from him so that he will be subject to the harsher penalty if he repeats this violation.

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

Decision:

Accept the Plaintiff's case and cancel the fine for the grounds stated.

This decision was issued in the presence of both litigants, and Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems

appropriate. Any litigant may appeal the decision within 30 days from the day following specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Key words:
Value Added Tax - Field Detection Fine - Fine for Absence of Invoice Date - Acceptance of Case

Abstract

The Taxpayer instituted this case moving to cancel ZATCA's decision regarding imposing a fine for not having a tax invoice date, in the amount of SAR 10,000, requesting that the fine be cancelled. The Department found that the case file was devoid of anything indicating that the Taxpayer had previously been penalized or that a pledge had been taken from him. Thus, the Department concluded that this violation should be penalized with an pledge taken from the Plaintiff, so that he would be subject to the fine if he repeated the violation within the specified statutory periods. Therefore, the Department ruled to accept the Taxpayer's case and cancel the fine.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article (48) of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common VAT Agreement of GCC states of November 2016
- The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly)

Facts:

The facts of this case are summed up in that Mr....., National ID No. ..., in his capacity as the owner of ..... establishment, Commercial Registration No. ....., filed a statement of claims objecting to the decision of the Defendant, ZATCA, regarding the imposition of a fine for not having a tax invoice date, No. ..... and date ....., in the amount of SAR 10,000, and requesting the cancellation of the Defendant's decision.

Having presented the statement of claims to the Defendant, it responded as follows: "On 13/07/2021, ZATCA's representatives visited the Plaintiff's premises to verify the application of the tax provisions. After inspection, it was found that the Plaintiff had violated the simplified invoice requirements stipulated in Article (53.8(b)) of the Implementing Regulations of Value Added Tax Law. After due verification, ZATCA imposed a fine on the Plaintiff in the amount of SAR 10,000, based on the provisions of Article (45.3) of the Value Added Tax Law. Based on the foregoing, ZATCA requests a ruling to dismiss the case and uphold ZATCA's decision in question. ZATCA also reserves the right to provide further responses and clarifications before the closing of the pleadings."

On Monday, 04/04/2022 AD, a session was held in accordance with the Remote Litigation Procedures. The Defendant was present, while the Plaintiff was not, despite being notified of the

date and manner of conducting the session. The Defendant's Representative, ... holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated (.....) dated ....., issued by Deputy Governor for Legal Affairs. Given the Plaintiff's absence, the Defendant requested to proceed with the case and issue a decision. After reviewing the case and the documents submitted, and since the case was found to be ripe for adjudication and having terminated the participation of the attendees for deliberation pursuant to the law and its implementing regulations, the Department decided to close the pleadings and deliberations Decision.

Grounds

After reviewing the case file and conducting a thorough examination, and in accordance with the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH and its amendments, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH and its amendments, the Rules of Procedure for Tax Dispute and Violation Committees issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since Plaintiff filed its case to request that Defendant decision be abolished related to the imposition of a fine for not having a tax invoice date, and since this is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Excise 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: Upon reviewing the case file and the arguments made by both parties, it was found that the Plaintiff requests that the field detection fine be cancelled. It was established that the decision of the Board of Directors of ZATCA, effective as of January 30, 2022, includes the reclassification of violations and the penalties associated with them. A tiered approach has been introduced for violations related to field visits and electronic invoicing, where a warning is sufficient for the first-time violation, with penalties escalating for repeated offenses. The Board is authorized, under the law, to issue such decisions. Since the new amendment is considered a more lenient law for the violator, and the decision aims to achieve one of the objectives of the law, particularly the provision of Article 48, which calls for the alignment of the violation with the penalty and the necessity of escalating penalties while providing a warning before imposing any punishment. While the general rule is that the provisions of any law do not apply retroactively, exceptions to this rule exist, including the issuance of a more favorable law for the defendant, as is the case here, since a final, enforceable judgment has not been issued yet.
As the case file does not indicate that the Plaintiff has been previously penalized or given a pledge, the Department concludes that the Plaintiff benefits from this decision and that a pledge is taken from him so that he will be subject to the harsher penalty if he repeats this violation.

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

Decision:

Accept the Plaintiff's case and cancel the fine in question for the grounds stated.

This decision was issued in the presence of both litigants, and Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules 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. VR-2022-56
Case No. V-66559-2021

Key words:
Value Added Tax - Tax Invoice - Field Detection Fine - Dismissal of Case

Abstract

The Taxpayer instituted this case to cancel ZATCA's decision regarding the imposition of a field detection fine in the amount of SAR 10,000, and to cancel the fine. The Department found that the Taxpayer did not record the tax number on the invoice issued by it. Therefore, the Department dismisses Zakat Payer's objection.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article (45.3) of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly)

Facts:

The facts of this case are that the Plaintiff, National ID No. ....., in her capacity as owner of the .....establishment, Commercial Registration No. ....., filed a statement of claims that included its objection to ZATCA's decision regarding the imposition of a field detection fine in the amount of SAR 10,000, and requested that the fine be cancelled.

Having presented the statement of claims to the Defendant, it responded as follows: "On 28/04/2021, ZATCA's representatives visited the Plaintiff's site and examined the simplified invoices submitted by the Plaintiff during the field campaign. After inspection, it was found that they violated the simplified invoice requirements contained in Article (53.8(b)) of the Implementing Regulations of the Value Added Tax Law, which states, "A Simplified Tax Invoice must include the following details: .....b) the name, address and Tax Identification Number of the Supplier". Based on the above, ZATCA requests the Department to dismiss the case".

On Wednesday, 05/01/2022, the Department held its first session to consider the case filed by Jamila bint Badah Al-Mutrafi, national ID number (...), against ZATCA. Upon calling the parties to the case, the Plaintiff, nor her representative, attended, despite being duly notified of the session date via the email address registered in the case file. For the Defendant appeared Mr....., national ID number ....., in his capacity as ZATCA's representative as per authorization No..... issued by ZATCA. After verifying that both parties are dult represented by displaying their national ID card through a magnifying window and confirming their status, the Department decided to proceed with the case. In its statement of claims, the Plaintiff moved to cancel of ZATCA decision

regarding imposition of Field Detection Fine in the amount of (SAR 10,000) as detailed in statement of claims. When ZATCA's representative was asked about his response to the Plaintiff's case, he maintained the validity of ZATCA's decision based on the details contained in the Reply submitted in response to the Plaintiff's case. Based on the foregoing and where neither the Plaintiff nor its representative attended this session, despite being duly notified of its date, and since the case was ready for adjudication, and after due deliberation, the Department decided to close the pleadings and adjourn the session for deliberation and delivery of its decision.

Grounds

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

In form, since Plaintiff filed its case to request cancellation of Defendant decision related to the imposition of a field detection fine based on the Value Added Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

As on merits, the Department, having examined the case papers and the arguments of both parties who have been given sufficient time to submit their pleadings, established that the Defendant imposed a field detection fine on the Plaintiff in the amount of SAR 10,000, due to the Plaintiff's failure to record the tax number on the invoice issued by it. The Plaintiff objected to the invoice in dispute and submitted new invoices for the gas station containing the tax number. The said invoice has Number..... and date of 28/04/2021 AD. The Department also reviewed Invoice No. ..... submitted by the Plaintiff, and Invoice No. ..... dated 28/04/2021 AD submitted by the Defendant, and established that the license number and the services provided under the two invoices are different and thus the invoice submitted by the Plaintiff cannot be relied upon as the Plaintiff is responsible for meeting the regulatory requirements of the simplified tax invoice. Whereas the Department established that the Plaintiff did not record the tax number on the invoice issued by it, the Department determines that the Defendant's decision to impose a fine for violating the provisions of the law or regulations in the amount of SAR 10,000 is valid as per Article (45.3) of the Value Added Tax Law.

For these grounds and after deliberation, the Department unanimously decided to:

Decision:

Accept Plaintiff's case in form.

On Merits: To dismiss the claim of the Plaintiff ....., National ID number ..... to cancel the field detection fine in the amount of SAR 10,000.

This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules 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. VSR-2022-1537
Case No. V-55023-2021

Key words:
Value Added Tax – Reassessment – Sales Subject to the Basic Rate – Late Payment fine

Abstract

The Taxpayer requests that ZATCA's decision related to the final assessment notice for the fourth quarter of 2018 be cancelled, and requests the cancellation of the Defendant's decision regarding the item (Sales Subject to the Basic Rate). The Taxpayer objects to the imposition of an estimated value-added tax in the amount of SAR 750,000. The Department found that the Defendant did not clarify in its Reply the grounds for the assessment of the tax. Therefore, The Department ruled to cancel the Defendant's decision.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- Articles 3, 4, 7, 62.1 and 79.9 **of** the Implementing Regulations of the Value Added Tax Law issued by the Decision No. (3839) of the Board of Directors of the General Authority of Zakat and Tax (formerly) dated 14/12/1438 AH corresponding to 14/11/2016 AD.

Facts:

The facts of this case are summarized as follows: The Plaintiff ....., National ID No..... in his capacity as owner of .....establishment, Commercial Registration No. ....., filed a statement of claims that included his objection to the decision of the Defendant, ZATCA, regarding the final assessment notice related to the fourth quarter of 2018 AD, requesting that the Decision be cancelled.

Having presented the statement of claim to Defendant, Defendant answered as follows: "First: Decision is presumed to be valid and sound, and whoever claims otherwise shall provide proof supporting his claims. Second: Pursuant to the authorities vested in ZATCA to verify the declarations and returns submitted by the Taxpayer as stipulated in Article (50) of the Value Added Tax Law, "Subject to the provisions of Article 28 of the Law, the Authority shall be in charge of the administration, examination, assessment, and collection of tax, and shall, to this end, take any measures it deems fit.", and Pursuant to Paragraph (1) of Article (26) of the Value Added Tax Law: "1. The Authority may conduct a tax assessment of a taxable person irrespective of the tax return filed by him." Article (64) of the Implementing Regulations of the Value Added Tax Law also stipulates: "The Authority may make an assessment of the VAT obligations of a Person in respect of one or more Tax Periods. The Authority shall provide notification to the Taxable Person when it issues such an assessment". Accordingly, ZATCA reassessed the declarations for the tax period in question. Regarding the amendment to the "Sales" item: ZATCA would like to draws the

Department's attention that the Plaintiff initially declared sales exempt from value-added tax (VAT) for all tax periods in question. Since exempt sales are exclusively included in the Implementing Regulations of the VAT Law, and subject to specific conditions and controls, and to verify the applicability of these conditions and controls to the sales declared by the Plaintiff, ZATCA, pursuant to Article (56.1) of the Implementing Regulations of the VAT Law, requested supporting documents to verify the validity of the submitted declarations: "1- All Persons must provide the Authority with any information requested by the Authority for the purposes of establishing whether that Person is complying fully with its Tax obligations". (Attached is the information request notice). Based on the above, and due to the Plaintiff's failure to submit the required documents, ZATCA cncelled the exempt sales and included them among sales subject to tax at the basic rate in accordance with Article (14) of the aforementioned Regulations: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity ....." Regarding the amendment to the purchases item: The Plaintiff did not submit invoices to ZATCA that match the description of the tax invoice proving his right to deduct the input tax. This forfeits the Plaintiff's right to deduct the tax due to the failure to meet the deduction conditions stipulated in Article (48) of the Common VAT Agreement: "For purposes of exercising the right of deduction, the Taxable Person must hold the following documents: a) the Tax Invoice received pursuant to the provisions of this Agreement". Moreover, Article (49.7) of the Implementing Regulations of the Value Added Tax Law states: "7. Input Tax may only be deducted where the Taxable Person holds evidence of the amount of Input Tax paid or payable in a form specified in Article forty-eight of the Agreement". Based on the above, ZATCA requests the Honorable Department to dismiss the case and uphold ZATCA's decision in question. ZATCA also reserves the right to provide further responses and clarifications before the closing of pleadings.

On Wednesday, 18/05/1443 AH, corresponding to 22/12/2021, the session was convened via virtual communication in accordance with remote litigation procedures based on Clause No. (2) of Article (15) of Tax Dispute and Violation Committee Procedures, issued by Royal Order No. (26040) dated: 04/21/1441 AH; Upon summoning the parties to the case, Mr..... ID No..... attended as the Plaintiff's representative pursuant to Power of Attorney No. ..... for the Defendant appeared Ms. ..... in her capacity as Defendant's representative by virtue of authorization No. (.....) dated 04/06/1442 AH, issued by the Deputy Governor for Legal Affairs. When the Plaintiff's representative was asked about his client's case, he provided the same statements included in the statement of claims, adding that he limited his case to sales subject to the basic rate and fines resulting from the final assessment for the fourth quarter of 2018. When this was presented to the Defendant's representative, she maintained the responses contained in the Reply submitted during the hearing. Having reviewed the documents contained in the case file, it was found that neither the final assessment notice nor the tax return form were attached. When the Plaintiff's representative was questioned about these documents, he requested a period of time to submit them. Accordingly, the Department decided to adjourn the case until Monday, 27/12/2021, at 2:00 PM.

On Monday, 23/05/1443 AH, corresponding to 27/12/2021, the session was convened via virtual communication in accordance with remote litigation procedures based on Clause No. (2) of Article (15) of Tax Dispute and Violation Committee Procedures, issued by Royal Order No. (26040) dated: 04/21/1441 AH; Upon summoning the parties to the case, Mr..... ID No..... In his capacity as the Plaintiff's Attorney by POA No. (.....), and ..... ID No..... in her capacity as Defendant's representative by virtue of authorization No. (.....) dated 06/04/1442 AH, issued by the Deputy Governor for Legal Affairs. In that session, the Department asked the Plaintiff's representative about his response he was given a period to submit, and he provided the answers included in the supplementary memorandum he submitted. in addition, he provided the Department with a set of documents, which were deposited in the case file. When the two parties

were asked what they would like to add, they replied that they were satisfied with their submissions. Accordingly, the department decided to adjourn the session for deliberation and delivering its decision.

Grounds

After reviewing case papers, careful examination thereof, and in light of Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued pursuant to the Minister of Finance Decision No. (1535) of 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, and its Implementing Regulations issued by Decision of the Board of Directors of the General Authority of Zakat and Income (currently ZATCA) No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 H, and Common VAT Agreement of GCC States, as well as related laws and regulations.

In form. Since Plaintiff filed its case to annul Defendant's decision regarding the final assessment notice for the fourth quarter of 2018, and as this dispute falls within jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes according to Royal Decree No. (26040) dated 21/04/1441 AH, and since the case was filed by an authorized party within the period prescribed by law, it is therefore accepted in form by the Department.

As on Merits: the Department, having examined the case documents and the responses of both parties, determined that the Plaintiff requests to revoke the Defendant's decision regarding the final assessment notice relating to the fourth quarter of 2018. Accordingly, the Department clarified the following:

First: Concerning sales subject to the basic rate for the tax period of the fourth quarter of 2018: It was found that the Plaintiff disputes the Defendant's action to impose an estimated value-added tax of SAR 750,000 for the tax period relating to the fourth quarter of 2018. given that the Defendant did not provide in its Reply the grounds or the estimated tax, and since the Plaintiff runs a car maintenance business based on the registration certificate of a sole proprietorship numbered ..... dated 29/04/1440 AH corresponding to 05/01/2019 AD with a capital of SAR 5,000, which is considered a taxable activity. The notice of acceptance of deregistration request No. ..... dated 27/06/1442 AH corresponding to 09/02/2021 AD was accepted. The Plaintiff then filed an objection on 24/03/2021 AD as stated in the notice of receipt of objection request No. ..... and issued an automatic cancellation notice on 24/05/2021 AD due to the Plaintiff's failure to provide the information within the legally prescribed period. This indicates a violation of Articles (62.1), (79.9), (3), (4), and (7) of the Implementing Regulations, based on the following: First: The Plaintiff's sales did not exceed the mandatory registration threshold of SAR 375,000; Second: The commencement of activity in January 2019 AD; and Third: The registered capital as per the commercial registration was SAR 5,000, which is irrelevant to the estimated value-added tax. Therefore, the Department deems the Defendant's action invalid.

Second: Late Payment Fine: It was plain that the Plaintiff objects to the Defendant's decision to impose a late payment fine resulting from sales subject to the basic rate for the tax period of the fourth quarter of 2018, as a result of the imposition of an estimated value-added tax in the amount of SAR 750,000. The Department established that the Defendant's action in Item First is invalid, and consequently this fine should not apply. Therefore, the Department concludes to dismiss the Defendant's action in imposing the fine.

For these grounds and after deliberation, the Department unanimously decided to:

Decision:

Accept case in form.

Accept the Plaintiff's case on merits, and cancel the Defendant's decision regarding the final assessment of the local sales item subject to the basic rate for the tax period in question.
This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.

May Allah's Blessings and Peace be upon our Prophet Muhammad and 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. VSR-2022-263
Case No. 44767-2021-V

Key words:
Value Added Tax - Refund of Tax Amount - Tax Period - Late Registration fine

Abstract

The Taxpayer instituted this case moving to cancel ZATCA's decision regarding value-added tax for the tax periods of the first, second, third, and fourth quarters of 2020. The Plaintiff claimed refund of an amount of SAR 28,215.63 due to incorrect registration for value-added tax. The Department found that the Taxpayer's registration was based on invalid grounds. Accordingly, the Department ordered that ZATCA refunds all amounts paid by the Taxpayer.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Article (50.2) of Common VAT Agreement of GCC states of November 2016
- Article (3) of the Implementing Regulations of Value Added Tax Law issued by resolution of the Board of Directors of ZATCA No. (3839) on 14/14/1438 AH.

Facts:

The facts of the case are summarized in that ....., holder of National ID No. ....., filed a statement of claims objecting to ZATCA's decision regarding value-added tax for the tax periods of the first, second, third, and fourth quarters of 2020, and requesting that the Defendant's decision be overturned.

Having presented the statement of claim to Defendant, it answered as follows: "First: Subjective Plea: ZATCA argued that the Plaintiff submitted his tax returns without any intervention from ZATCA, and ZATCA did not modify any of them. Therefore, ZATCA's decisions regarding these returns should not be contested. Second: Requests: ZATCA requests the Honorable Department to dismiss the Plaintiff's case. End of Answer.

On Sunday, 18/03/1443 AH, corresponding to 24/10/2021, the session was convened via virtual communication in accordance with remote litigation procedures based on Clause No. (2) of Article (15) of Tax Dispute and Violation Committee Procedures, issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to the case, it has been proven that Plaintiff or it legal representative did not appear despite the fact that she was informed of the date of this hearing via email registered in case file. For the Defendant appeared Mr..... in her capacity as Defendant's representative by virtue of authorization No. (.....) dated 06/04/1442 AH, issued by the Deputy Governor for Legal Affairs. Accordingly, the Department decided to dismiss the case due to its lack of jurisdiction.

On Thursday, 22/03/1443 AH, corresponding to 28/10/2021 AD, the Plaintiff submitted a request to proceed with the case.

On Wednesday, 09/06/1443 AH, corresponding to 12/01/2022, the session was convened via virtual communication in accordance with remote litigation procedures based on Clause No. (2) of Article (15) of Tax Dispute and Violation Committee Procedures, issued by Royal Order No. (26040) 21/04/1441 AH. Upon calling the parties to the Case, the Plaintiff apeared in his own capacity. For the Defendant appeared Mr....., (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated 08/03/1442 AH, issued by the Deputy Governor for Legal Affairs. When the Plaintiff was questioned about his case, he provided the same statements included in his statement of claims. Upon asking the Defendant's representative about his response, he said that the Plaintiff had been automatically registered via the Ejar platform. He also stated that ZATCA had dropped all fines imposed on him, including the late registration fine. Accordingly, the Department asked the Defendant's representative about the reason for canceling the late registration fine. He responded that the Plaintiff had filed an objection to the fine, and the request was accepted and the fine was canceled. The reason was most likely that the Plaintiff had not exceeded the mandatory registration threshold, and therefore the fine was cancelled. When both parties were asked if they had anything else to add, they replied that they were satisfied with their submissions. Accordingly, the Department decided to close the pleadings for deliberation, in preparation for delivering its decision.

Grounds

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of GCC States, the relevant laws and regulations.

In Form: Since the Case was filed by a person with capacity. Therefore, the Department accepts the Case in form.

On Merits: the Department, having examined the case papers and the submissions of both parties after giving them sufficient time to present their arguments, the Department determined that the Plaintiff claims a refund of an amount of SAR 28,215.63 due to invalid registration for value-added tax and payment of that amount for the tax periods related to the first, second, third, and fourth quarters of 2020. Article (50.2) of the Common VAT Agreement states that "the mandatory registration threshold shall be SAR 375,000. Article (3) of the Implementing Regulations of the Value Added Tax Law stipulates that "For registration purposes, every Resident Person in the Kingdom who is not registered by the Authority must at the end of each month calculate the value of his Supplies made in the Kingdom within the twelve months then ended, in accordance with the requirements set out in the Agreement. In cases where this value exceeds the Mandatory Registration Threshold detailed in the Agreement, the Person must apply to the Authority to register within thirty (30) days of the end of that month pursuant to Article eight of these Regulations". The Department has established that the Plaintiff was registered for value added tax based on the information on "Ejar" platform without fulfilling the requirements of the regulatory texts, and without exceeding the mandatory registration threshold. Thus, the Defendant imposed the tax and fines without consideration to whether this was compliant with the law or not. Accordingly ZATCA corrected the situation by canceling the late registration fine imposed on the Plaintiff pursuant to the notice dated 11/03/2021 AD, and it also canceled the tax registration decision for the Plaintiff pursuant to the notice dated 01/08/1442 AH, which proves that the Plaintiff's registration was ill-grounded. Therefore, the Department concludes to accept the Plaintiff's claim for the refund.

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

Decision:

Accept case in form.

Accept the Plaintiff's case on merits and order that ZATCA refund the amounts paid by the Plaintiff, National Id No..... totaling SAR 28,215.63 (twenty-eight thousand two hundred and fifteen riyals and sixty-three halalas.)

This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules 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. VSR-2022-269
Case No. V-63105-2021

Key words:
Value Added Tax - Tax Certificate - Field Detection Fine - Cancellation of Decision

Abstract

The Taxpayer requested to cancel ZATCA's decision regarding the imposition of a field detection fine for failure to present the tax certificate, in the amount of SAR10,000. The Department found that the Taxpayer attached images from the website showing the tax certificate on the home page under the "General Provisions" section. Thus, it was held that the Taxpayer is not in violation of the provisions of the law or Regulations. Therefore, the Department cancelled ZATCA's decision.

Facts:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article (45.3) of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- Article 8.8 of the The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly) No. (3839) dated 14/12/1438 AH corresponding to 14/11/2016 AD

Facts:

The facts of this case are that the Plaintiff ....., commercial registration number ....., represented by the attorney....., national ID number ....., a statement of claims, which included his objection to the Defendant's decision to impose a field detection fine, as a result of violating the provisions of the law and regulations (failure to display the VAT registration certificate), in the amount of SAR 10,000, and requests that the Defendant's decision be cancelled.
Having presented the statement of claims to Defendant, it answered as follows: "First: Subjective Plea: 1. On 22/04/2021, ZATCA's representatives reviewed the Plaintiff's website during a field inspection to verify the proper implementation of the Value Added Tax Law and its Implementing Regulations. Upon inspection, it was found that the tax certificate was not displayed on the website, which constitutes a violation of the provisions of Article (8.8) of the Implementing Regulations of the Value Added Tax Law, which states: "8. A Resident Person who is a Taxable Person and who is registered with the Authority must display the registration certificate at such Taxable Person's main place of business and branches in a manner that is visible to the general public". 2. After verifying the Plaintiff's violation of the provisions of the Value Added Tax Law and its Implementing Regulations, as stated above, ZATCA imposed a fine of SAR 10,000 on the Plaintiff based on Article (45(Third)) of the Value Added Tax Law, which states: "A fine not exceeding 50,000 riyals shall be imposed on any person who: 3. Violates any other provision of the Law or

the Regulations." Second: Requests: In view of the foregoing, ZATCA requests the Honorable Committee to dismiss the Case for the above-mentioned reasons". End of Answer.
On Thursday, 10/06/1443 Ah, 13/01/2022 AD, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the case, Mr..... holder of National ID No. ....., appeared in its capacity as legal Representative of Plaintiff. For the Defendant appeared Ms..... holder of National ID No. (...), in her capacity as Defendant's representative by virtue of authorization No. (.....) dated 04/06/1442 AH, issued by the Deputy Governor for Legal Affairs. When the Plaintiff's representative was asked about his case, he maintained the same statements contained in the statement of claims filed by the Plaintiff. When the Defendant's representative was asked about her response, she provided the same answers included in her Reply and presented the field detection report to the Department. When both parties were asked what they had anything else to add, they answered that they are satisfied with their earlier submissions. Accordingly, the Department decided to adjourn the session for deliberation, in preparation for delivering its decision.

Grounds

After reviewing the Case documents, and upon thorough examination, and in light of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/06/1425 AH as amended, Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.
In Form: Since the Case was filed by a person with capacity. Therefore, the Department accepts the Case in form.
On merits: the department, after examining the case documents and the submissions of both parties who were given sufficient time to express and submit their pleadings, determined that the Plaintiff objects to the imposition of a field detection fine as a result of violating the provisions of the Law and Regulations (failure to display the VAT registration certificate). A fine of SAR 10,000 is imposed. Article (8.8) of the VAT Implementing Regulations states, "A Resident Person who is a Taxable Person and who is registered with the Authority must display the registration certificate at such Taxable Person's main place of business and branches in a manner that is visible to the general public." Article (45.3) of the VAT Law also states, "A fine not exceeding 50,000 riyals shall be imposed on any person who: 3. Violates any other provision of the Law or the Regulations." Upon reviewing the Defendant's Reply and examining the documents attached thereto, it was found that the website's image was not attached. The Plaintiff attached images of the website, indicating the presence of the tax certificate on the homepage under the "General Provisions" section. Therefore, the Plaintiff is not in violation of the provisions of the law or regulations, pursuant to Article (8.8) of the Implementing Regulations of the Value Added Tax Law, which stipulates that a taxable resident registered with ZATCA is required to display the registration certificate at his or her main place of business and branches, so that it is visible to the public. Accordingly, the Department concluded to overturn the Defendant's decision regarding the fine imposed, pursuant to Article (45.3) of the Value Added Tax Law.
Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department after deliberation unanimously decided to:

Decision:

First: Accept case in form.

Second: Accept the Plaintiff's case and cancel the Defendant's decision regarding the field detection fine.

This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules 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. VSR-2022-932
Case No. V-66675-2021

Key words:
Value Added Tax – Late Payment Fine – Final Assessment – Tax Return – Filing Error Fine

Abstract

Taxpayer requests annulling ZATCA decision regarding filing error fine and the late payment fine resulting from the final assessment issued for tax period of September 2018. Taxpayer requests canceling filling error fine and late payment fine resulting from the final assessment issued for tax period. In addition, the Department found that Taxpayer had not settled the due tax for tax period in question. The Department decided to dismiss the claim.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Paragraph (1) of Article (27) and Paragraph (3) of Article (42) of and Article (43) of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH.
- Article (61) of Common VAT Agreement of the States of the Gulf Cooperation Council (GCC), November 2016 AD
- Paragraph (1) of Article (59) and Paragraph (1) of Article (62) of the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Decision No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD

Facts:

The facts of this Case are summarized that Plaintiff (...), holder of National ID No. (...), in his capacity as the owner of (...) Enterprise, C.R. No. (...), submitted a statement of claim objecting to the fine for error in tax return and the late payment fine resulting from the final assessment issued for tax period of September 2018, requesting their cancellation.
Having presented the statement of claims to Defendant, it answered as follows: "Having taken cognizance of Plaintiff's statement of claim, it turns out that Plaintiff objects to the failure to cancel fines imposed for tax periods in accordance with Ministerial Initiative No. (2303). Therefore, ZATCA would like to clarify that the fines imposed on Taxpayer that are outlined in fines for errors in tax return and late payment fines for tax periods (January – February – March – April – May – June 2018 – Q4_2018), were applied, since the principal tax amount was paid in April 2021. Thereupon, the provisions of Ministerial Initiative issued under Resolution No. (2303) were applied. Accordingly, the fines were reduced by 75% as stipulated in the decision: "The fines for late payment and late filing stipulated in all tax regulations, in addition to the fine for correcting tax return as stipulated in the Law of Value Added Tax, shall be waived if they are related to a tax

return that was due for submission and/or payment to ZATCA before the date this decision enters into force, provided that Taxpayer or Taxable Person pays the full principal tax debt related to that return starting from the date of issuing this decision according to the following percentages: 2. 75% waiver of fines mentioned in this section shall be granted if the full principal tax debt related to tax return that resulted in the fine is paid during the period from April 2021 to May 2021". Accordingly, the fines due by Taxpayer were adjusted with 75% waiver only, as they cannot be fully canceled since Plaintiff did not make the payment during the period from January 2021 to March 2021. As such, ZATCA requests the Honorable Committee to dismiss the Case for reasons stated above and uphold ZATCA procedure in question. In addition, ZATCA reserves the right to submit further responses and clarifications until closing of pleadings.

On Sunday, 09/01/2022 AD, the session convened via video conference in accordance with remote litigation procedures in accordance with provisions of Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties to the Case, the Department found that Plaintiff, holder of ID No. (...). In addition, (...), holder of ID No. (...), appeared in her capacity as Defendant's representative by virtue of authorization No. (.....) dated 04/06/1442 AH issued by Vice Governor for Legal Affairs. Having asked Plaintiff about the claim, he reiterated the statements included in the statement of claim and answer, and that he insists thereon. Having presented the same to Defendant's representative, he answered as stated in the statement of claim, and that he insists thereon. At that session, the Department found that ZATCA answer does not correspond to Plaintiff's statement of claim, as Plaintiff stated that his claim involves a request for the waiver of fines under the Ministerial Initiative. In addition, Plaintiff asserted that he had paid the principal tax amount on 14/04/2021 AD. Accordingly, the Department decided to adjourn hearing of the Case to Thursday, 27/01/2022, 02:00 PM for ZATCA to present its substantive arguments, with the answer to be submitted no later than 16/01/2022 AD.

On Thursday 27/01/2022 AD, the session convened via video conference in accordance with remote litigation procedures in accordance with provisions of Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties to the Case, the Department found that Plaintiff (...), holder of Civil ID No. (...), appeared. In addition, (...), holder of Civil ID No. (...), appeared in his capacity as representative of Defendant (ZATCA) under Authorization No. (...) dated 04/06/1442 AH issued by Vice Governor for Legal Affairs. At that session, Defendant's representative submitted a statement an answer along with a set of documents, all of which were filed in Case file. Having presented the same to Plaintiff, he satisfied with his earlier submissions. Therefore, the Department decided to adjourn the session for deliberation in preparation for adjudication.

Grounds

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

In Form: Since Plaintiff filed the Case moving for annulling fine for error in tax return and late payment fine resulting from the final assessment issued for tax period of September 2018 in accordance with the Law of Value Added Tax and its Implementing Regulations. Since this dispute falls within the jurisdiction of the Committee for Determination of Tax Disputes and Violations as per Royal Decree No. (M/113) dated 02/11/1438 AH. Since the Case was filed by a party

having capacity and within the statutory period. Therefore, the Department accepts the Case in form.

On Merits: The Department, having taken cognizance of documents included in Case file and responses of both parties after being granted sufficient time to present their arguments, found that Plaintiff requests annulling fine for error in tax return and late payment fine resulting from the final assessment issued for tax period of September 2018 in accordance with the Ministerial Initiative. Regarding the fine for error in tax return, Article (61) of the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) stipulates: "Each Member State shall determine the timeframes, conditions and rules for submission of Tax Returns by a Taxable Person for each tax period, provided that The Ministerial Committee shall determine the minimum data required to be included in the tax return". In addition, Paragraph (1) of Article (24) of the Law of Value Added Tax stipulates: "The Regulations shall determine the tax period for which a taxable person must file a tax return". Moreover, Paragraph (2) of the same article stipulates: "A taxable person must file a tax return with the Authority for each tax period within the period provided for and in accordance with the terms and conditions set in the Regulations". Furthermore, Paragraph (1) of Article (62) of the Implementing Regulations of the Law of Value Added Tax stipulates: "The Tax Return of a Taxable Person must be filed by the Taxable Person or a person authorized to act on his behalf for each Tax Period with the Authority no later than the last day in the month following the end of the Tax Period to which the Tax Return relates. A Tax Return filed validly on behalf of a Taxable Person shall be considered that Taxable Person's self-assessment of Tax due for that Tax Period. The Authority shall have the right to issue an assessment based on its best estimate of the Tax properly due for the relevant Tax Period in cases where the Taxable Person has failed to file a Tax Return. The Taxable Person remains obligated to submit the outstanding Tax Return". In addition, Paragraph (3) of Article (42) of the Law of Value Added Tax stipulates: "Any Person that fails to submit a Tax Return within the period specified by the Regulations shall be liable to a fine of not less than (5%) and not more than (25%) of the value of the Tax that he would have had to declare". Since the Ministerial Initiative No. (2303) stipulates: "The fines for late payment and late filing stipulated in all tax regulations, in addition to the fine for correcting tax return as stipulated in the Law of Value Added Tax, shall be waived if they are related to a tax return that was due for submission and/or payment to ZATCA before the date this decision enters into force, provided that Taxpayer or Taxable Person pays the full principal tax debt related to that return starting from the date of issuing this decision according to the following percentages: 2. 75% waiver of fines mentioned in this section shall be granted if the full principal tax debt related to tax return that resulted in the fine is paid during the period from April 2021 to May 2021". Therefore, the Department found that Plaintiff paid the principal tax amount in April 2021 and was granted 75% exemption from fines in accordance with the Ministerial Initiative. Thereupon, the Department dismisses Plaintiff's request in this regard. Regarding the imposition of late payment fine, Paragraph (1) of Article (27) of the Law of Value Added Tax, related the payment of tax, stipulates: "The Regulations shall determine the periods and terms and conditions for the payment of net tax due on a taxable person". In addition, Paragraph (1) of Article (59) of the Implementing Regulations of the Law of Value Added Tax, related to tax payment, stipulates: "Payment of Tax due by a Taxable Person in respect of a Tax Period must be made at the latest by the last day of the month following the end of that Tax Period". In addition, Article (43) of the Law of Value Added Tax stipulates: "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid". Since it turned out that Plaintiff did not pay the due tax for tax period in question in accordance with provisions of the Law and its Implementing Regulations. Therefore, the Department finds that Defendant's procedure outlined in imposing late payment fine is valid in accordance with Paragraph (3) of Article (42) and Article (43) of the Law of Value Added Tax.

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

Decision:

Accept Plaintiff's case in form.
Dismiss Plaintiff's claim on merits regarding the fines for late filing and late payment for tax period in question.
This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Appellate Committee:

Appellate Committee ruled to uphold the decision.

Key words:
Value Added Tax – Field Seizure Fine – No Address Identified – Tax Invoice Requirements – Simplified Tax Invoice – Dismissing Claim

Abstract

Taxpayer requests annulling ZATCA decision regarding the field seizure fine due to the lack of Enterprise's address, specifically regarding the imposition of a fine for violating provisions of the Law. Taxpayer requests annulling fine of SAR 10,000 imposed for non-compliance with the Law or Regulations due to the lack of Enterprise's address. The Department found that the invoices provided by Defendant confirm that the invoices were issued without including Enterprise's address. As such, the Department dismisses Taxpayer's claim.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH
- Article (45.3) of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- Paragraph (8) and (8.B) of Article (53) of the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Decision No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD

Facts:

The facts of this Case are summarized that (...), holder of National ID No. (...), in his capacity as the owner of (...) Enterprise, C.R. No. (...), submitted a statement of claim objecting to the field seizure fine due to the lack of Enterprise's address and requests its cancellation.
Having presented the statement of claims to Defendant, it answered as follows: "Having taken cognizance of Plaintiff's statement of claim, the Department found that the claim is related to a field seizure fine for the lack of Enterprise's address on some of invoices issued by Plaintiff. Accordingly, ZATCA replies as follows: - On 23/06/2021 AD, ZATCA representatives visited Plaintiff's premises and examined the simplified invoices provided by Plaintiff during the field campaign to ensure compliance with the Law of Value Added Tax and its Implementing Regulations. Upon inspection, it turned out that the invoices did not meet the requirements for simplified invoices as stipulated in Paragraph (8.b) of Article (53) of the Implementing Regulations of the Law of Value Added Tax, which stipulates: "A simplified Tax Invoice must include the following details: b) The name, address and Tax Identification Number of the Supplier". (Attached) – After confirming Plaintiff's violation of provisions of the Law of Value Added Tax

and its Implementing Regulations as outlined above, ZATCA imposed a fine of SAR 10,000 pursuant to Decision No. (...) in accordance with Paragraph (3) of Article 45 of the Law of Value Added Tax that stipulates: "A fine not exceeding 50,000 riyals shall be imposed on any person who: 3. violates any other provision of the Law or the Regulations". As such, ZATCA requests the Honorable Committee to dismiss the Case for above-mentioned reasons and uphold ZATCA procedure, subject matter of the Case. In addition, ZATCA reserves the right to provide further responses and clarifications until before closing of pleadings".

On Thursday 10/02/2022 AD, the session convened via video conference in accordance with remote litigation procedures in accordance with provisions of Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties to the Case, the Department found that neither Plaintiff nor his representative appeared despite of being duly notified of session date. In addition, (...), holder of Civil ID No. (...), appeared in his capacity as representative of Defendant (ZATCA) under ZATCA Vice Governor for Legal Affairs Authorization No. (...) dated 04/06/1442 AH. Since the Department decided to proceed with the Case due to the fact that it is ripe for adjudication in accordance with provisions of Article (20) of Tax Dispute and Violation Committee Procedures. Therefore, the Department asked Defendant's representative about his answer to the statement of claim, he gave an answer that does not differ from such statements included in the answer and insists thereon. Thereupon, the Department decided to adjourn the session for deliberation in preparation for adjudication.

Grounds

Having perused and verified case papers, and having perused Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, and in accordance with the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, and its Implementing Regulations issued by ZATCA Board Resolution No. (3839) dated 14/12/1438 AH as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of the States of the Gulf Cooperation Council (GCC), as well as other relevant laws and regulations.

In Form: Since Plaintiff filed the Case moving for annulling field seizure fine in accordance with the Law of Value Added Tax and its Implementing Regulations. Given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of Tax Violations and Disputes Committee pursuant to Royal Order No. (M/113) dated 02/11/1438 AH. Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form.

On Merits: The Department, having taken cognizance of Case documents and answers of both parties after granting them sufficient time to present their arguments, found that Plaintiff requests annulling a fine for violating provisions of the Law or Regulations in the amount of SAR 10,000 due to the lack of Enterprise's address. In addition, Paragraph (8) of Article (53) of the Implementing Regulations of the Law of Value Added Tax, related tax invoices, stipulates: "A simplified Tax Invoice must include the following details: b) The name, address and Tax Identification Number of the Supplier". In addition, Paragraph (3) of Article (45) of the Law of Value Added Tax stipulates: "A fine not exceeding 50,000 riyals shall be imposed on any person who: 3. violates any other provision of the Law or the Regulations". Having taken cognizance of field seizure report dated 23/06/2021 AD for the Enterprise, as well as the invoices submitted by Defendant No. (...) dated 22/09/2021 AD, No. (...) dated 20/06/2021 AD, No. (...) dated 23/06/2021 AD, it was confirmed that the invoices were issued without Enterprise's address. Accordingly, Plaintiff is considered in violation of tax invoice requirements in accordance with Paragraph (8.b) of Article (53) of the Implementing Regulations of the Law of Value Added Tax.

Therefore, the Department determines the validity of Defendant's procedure outlined in imposing a fine of SAR 10,000 for violating provisions of the Law or Regulations in accordance with Paragraph (3) of Article (45) of the Law of Value Added Tax.
Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department after deliberation unanimously decided to:

Decision:

First: Accept Plaintiff's case in form.
Second: Dismiss Plaintiff's claim on merits regarding the fine for violating provisions of the Law or Regulations in the amount of SAR 10,000.
This decision was issued in presence of both parties, and the Department set a period of thirty (30) days for the receipt of a copy of the decision. The Department may extend the deadline for receipt by an additional thirty days if deemed necessary. In addition, the decision shall become final and enforceable in accordance with provisions of Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Appellate Committee:

Appellate Committee ruled 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. VSR-2022-1003
Case No. V-69868-2021

Key words:
Value Added Tax – Late Payment Fine – Accepting Claim – Validity of Claim Established.

Abstract

ZATCA requests obliging Defendant to pay VAT and late payment fines for tax period related to Q3 of 2019, amounting to SAR 741,575.00. Plaintiff filed the Case moving for obliging Defendant to pay an amount of SAR 741,575.00 . The Department found that Defendant failed to fulfill its tax obligations within the statutory deadline despite of being notified of the necessity for payment and informed of service cessation. Therefore, the Department obliges Defendant to pay VAT and late payment fines.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Paragraph (8) of Article (67) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH.
- Common VAT Agreement of GCC states of November 2016
- Implementing Regulations of Income Tax Law promulgated by Minister of Finance Decision No. (1535) of 11/06/1425 AH
- Article (59) of the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Decision No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD.

Facts:

The facts of this Case are summarized that ZATCA submitted a statement of claim requesting that Defendant (...), holder of National ID No. (...), is obligated to pay VAT and late payment fines for tax period related to Q3 of 2019. ZATCA requests the Department to oblige Defendant to pay an amount of SAR 741,575.00.

Defendant did not provide an answer despite of being notified of the claim filed against him and the requirement to respond.

On Thursday 23/06/1443 AH corresponding to 26/01/2022 AD, the session convened via video conference pursuant to remote litigation procedures in accordance with provisions of Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties to the Case, the Department found that (...) appeared holder of National ID No. (...), in his capacity as the representative of Plaintiff (ZATCA). On the other hand, neither Defendant nor his representative appeared despite of being notified of session date. Therefore, the Department decided to adjourn Case consideration to Sunday, 27/02/2022 AD, 2:00 PM.

On Sunday, 26/07/1443 AH corresponding to 27/02/2022 AD, the session convened via video conference pursuant to remote litigation procedures in accordance with provisions of Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties to the Case, the Department found that (...) appeared holder of National ID No. (...), in his capacity the representative of Plaintiff (ZATCA). On the other hand, neither Defendant nor his representative appeared despite of being notified of session date. At that session, the Department asked Plaintiff's representative about ZATCA claim. Therefore, Plaintiff's representative gave an answer that does not differ from such statements included in the statement of claim and maintained its position. In addition, Plaintiff's representative provided the Department provided with a document from SAP system, which substantiates the claimed amount. Therefore, the Department decided to adjourn the session for deliberation in preparation for adjudication.

Grounds

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

In Form: Having taken cognizance of Case file, the Department found that Plaintiff filed the claim through the e-portal on 12/08/2021 AD. Since the decision in question pertains to 2019. Therefore, the claim was filed within the five-year statutory period stipulated in Paragraph (8) of Article (67) of Income Tax Law as amended by Royal Decree No. (M/113) that stipulates: "Tax dispute lawsuits may not be heard upon the lapse of five years from the maturity date of the amount subject of the claim or the date of knowledge of the incident subject to the dispute, except in the presence of grounds acceptable by the Committee". Therefore, the Department accepts the Case in form.

On Merits: Plaintiff filed the Case moving for obliging Defendant to pay the amount of SAR 741,575.00, representing VAT and late payment fine for tax period related to Q3 of 2019. Since the Department found that Defendant violated Article (59) of the Implementing Regulations of the Law of Value Added Tax that stipulates: "Payment of Tax due by a Taxable Person in respect of a Tax Period must be made at the latest by the last day of the month following the end of that Tax Period". Since Defendant failed to fulfill his tax obligations within the statutory deadline despite of being notified of the necessity of payment and being informed of service cessation. Given that Defendant did not provide an answer to the Case, which constitutes negligence and failure to meet tax obligations towards the state's rights. For these grounds and after legal deliberation, the Department unanimously decided as follows:

Decision:

Oblige Defendant, holder of National ID No. (...), to pay Plaintiff (ZATCA) an amount of SAR 741,575 (seven hundred forty-one thousand five hundred seventy-five Riyals) that outlines VAT and late payment fines for tax period in question.

This decision was delivered in presence of the parties in accordance with provisions of Article (56) of the Law of Civil Procedure. The Department set (30) days for receiving a copy of the decision via the website of the General Secretariat of Zakat, Tax and Customs Committees. 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.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Key words:
Value Added Tax – Field Seizure Fine – Tax Collection – Dismissing Case

Abstract

Taxpayer requests annulling ZATCA decision regarding field seizure fine in the amount of SAR 10,000 arising from the collection of tax exceeding the amount due. Regarding field seizure fine, the dispute involves imposing field seizure fine due to the fact that Taxpayer collected a tax at a rate higher than 15%. The Department found, based on field seizure report provided by Defendant (ZATCA), that the tax was collected at a rate exceeding the statutory percentage. Therefore, the Department dismisses the claim.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Paragraph (2) of Article (2) and Paragraph (3) of Article (45) of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH.
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- 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 Decision No. (1535) of 11/06/1425 AH
- The Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Decision No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD

Facts:

The facts of this Case are summarized that (...), holder of National ID No. (...), in his capacity as the owner of (...) Enterprise, C.R. No. (...), submitted a statement of claim objecting to the field seizure fine, amounting to SAR 10,000 due to collecting tax higher than the due amount and requested annulling fines.

Having presented the statement of claims to Defendant, it answered as follows: "Having taken cognizance of Plaintiff's statement of claim, it turns out that it is confined to the following items: 1. Collecting tax higher than the due amount. We summarize our answer as follows: On 05/05/2021 AD, ZATCA representatives visited Plaintiff's premises and examined the simplified invoices issued during the field campaign to ensure compliance with provisions of the Law of Value Added Tax and its Implementing Regulations. Upon inspection, it turned out that the invoices violated provisions of Paragraph (2) of Article (2) of the Law of Value Added Tax that stipulates: "The tax shall be applied at a standard rate of 15% on the value of supply or import, unless otherwise specified for the supply itself". In addition, the simplified invoice requirements

set forth in Paragraph (8) of Article (53) of the Implementing Regulations of the Law of Value Added Tax stipulates: "A simplified Tax Invoice must include the following details: e) The Tax payable or a statement that the Consideration is inclusive of Tax in respect of the Supply of the Goods or services". Since the tax invoices issued to the end consumer included tax amounts at a rate higher than the statutory rate. (Attached) – After confirming Plaintiff's violation of provisions of the Law of Value Added Tax and its Implementing Regulations as outlined above, ZATCA imposed a fine of SAR 10,000 in accordance with Paragraph (3) of Article (45) of the Law of Value Added Tax that stipulates: "A fine not exceeding 50,000 riyals shall be imposed on any person who: 3. violates any other provision of the Law or the Regulations". As such, ZATCA requests the Honorable Committee to dismiss the case for grounds stated above and to uphold ZATCA decision, and ZATCA reserves the right to provide further responses and clarifications until the closing of pleadings. ".

On Sunday, 19/07/1443 AH corresponding to 20/02/2022 AD, the session convened via video conference pursuant to remote litigation procedures in accordance with provisions of Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties to the Case, the Department found that neither Plaintiff nor his representative appeared despite of being duly notified of session date. In addition, (...), holder of Civil No. (...), appeared in her capacity as Defendant's representative by virtue of authorization No. (.....) dated 04/06/1442 AH issued by Vice Governor for Legal Affairs. Since the Department decided to proceed with the Case due to the fact that it is ripe for adjudication in accordance with provisions of Article (20) of Tax Dispute and Violation Committee Procedures. Therefore, the Department asked Defendant's representative about his answer to the statement of claim, he gave an answer that does not differ from such statements included in the answer and insists thereon. Thereupon, the Department decided to adjourn the session for deliberation in preparation for adjudication.

Grounds

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

In Form: Since Plaintiff filed the Case moving for annulling ZATCA decision regarding field seizure fine in accordance with the Law of Value Added Tax and its Implementing Regulations. Given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of Tax Violations and Disputes Committee pursuant to Royal Order No. (M/113) dated 02/11/1438 AH. Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form.

On Merits: The Department, having taken cognizance of documents included in Case file and answer of each party after being granted sufficient time to provide their submission, found that the dispute involves imposing field seizure fines due to the fact that Plaintiff collected tax at a rate higher than 15%. In addition, Paragraph (2) of Article (2) of the Law of Value Added Tax stipulates: "The tax shall be applied at a standard rate of 15% on the value of supply or import, unless an exemption or zero rate is explicitly provided, in accordance with provisions of the Law and Regulations, for the supply itself". In addition, Paragraph (3) of Article (45) of the Law of Value Added Tax stipulates: "A fine not exceeding 50,000 riyals shall be imposed on any person who: 3. violates any other provision of the Law or the Regulations". Having taken cognizance of the entire case file, the Department finds from the field seizure report provided by Defendant

(ZATCA) regarding the visit conducted on 05/05/2021 signed by the representative of Taxpayer (…) that tax was collected at a rate higher than the statutory percentage. Having taken cognizance of the invoices, which include Plaintiff's Tax Identification Number (…), the Department found that the total invoice amount was SAR 34, with a tax amount of SAR 6, confirming that tax was collected from the end consumer at a rate exceeding 15%. As for Plaintiff's argument that the accounting system malfunctioned, leading to the use of manual invoices and difficulty in calculating tax, this does not constitute a valid argument in the Case. Accordingly, the Department dismisses the Case.

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

Decision:

Accept the Case in form.

Dismiss Plaintiff's claim on merits regarding field seizure in the amount of SAR 10,000.

This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under 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. VSR-2022-1007
Case No. V-65983-2021

Key words:
Value Added Tax – Field Seizure Fine – Tax Invoice – Dismissing Case

Abstract

Taxpayer requests annulling ZATCA decision regarding the field seizure fine in the amount of SAR 10,000 due to the absence of an invoice issuance date. Regarding field seizure fines, the dispute involves imposing field seizure fine resulting from the lack of an issuance date on the invoice. Having taken cognizance of Invoice No. (0401) and Invoice No. (0403), the Department found that Taxpayer did not include the date on the issued invoices. Thereupon, it is confirmed that tax invoice did not meet the requirements. The Department decided to dismiss the claim.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article (45.3) of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- 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 Decision No. (1535) dated 11/06/1425 AH
- Paragraph (8.a) of Article (53) of the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Decision No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD

Facts:

The facts of this Case are summarized that (...), holder of National ID No. (...), in his capacity as the owner of (...) Enterprise, C.R. No. (...), submitted a statement of claim objecting to the field seizure fine in the amount SAR 10,000 due to the lack of invoice issue date and requests its cancellation.

Having presented the statement of claims to Defendant, it answered as follows: "Having taken cognizance of Plaintiff's statement of claim, it turns out that it is confined to the following items: 1. The lack of invoice issue date. We summarize our answer as follows: On 16/06/2021 AD, ZATCA representatives visited Plaintiff's premises and examined the simplified invoices provided by Plaintiff during the field campaign to ensure compliance with the Law of Value Added Tax and its Implementing Regulations. Upon inspection, it turned out that the invoices did not meet the requirements for simplified invoices as stipulated in Paragraph (8.a) of Article (53) of the Implementing Regulations of the Law of Value Added Tax, which stipulates: "a) the date of issue". Having taken cognizance of the seized invoices, it turned out that such invoices did not include an issue date. Accordingly, ZATCA maintains the validity of its decision to impose the fine in

question. After confirming Plaintiff's violation of provisions of the Law of Value Added Tax and its Implementing Regulations as outlined above, ZATCA imposed a fine of SAR 10,000 in accordance with Paragraph (3) of Article 45 of the Law of Value Added Tax that stipulates: "A fine not exceeding 50,000 riyals shall be imposed on any person who: 3. violates any other provision of the Law or the Regulations". As such, ZATCA requests the Honorable Committee to dismiss the case for grounds stated above and to uphold ZATCA decision, and ZATCA reserves the right to provide further responses and clarifications until the closing of pleadings. ".

On Sunday, 19/07/1443 AH corresponding to 20/02/2022 AD, the session convened via video conference pursuant to remote litigation procedures in accordance with provisions of Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties to the Case, the Department found that neither Plaintiff nor his representative appeared despite of being duly notified of session date. In addition, (...), holder of Civil No. (...), appeared in her capacity as Defendant's representative by virtue of authorization No. (.....) dated 04/06/1442 AH issued by Vice Governor for Legal Affairs. Since the Department decided to proceed with the Case due to the fact that it is ripe for adjudication in accordance with provisions of Article (20) of Tax Dispute and Violation Committee Procedures. Therefore, the Department asked Defendant's representative about his answer to the statement of claim, he gave an answer that does not differ from such statements included in the answer and insists thereon. Thereupon, the Department decided to adjourn the session for deliberation in preparation for adjudication.

Grounds

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

In Form: Since Plaintiff filed the Case moving for annulling ZATCA decision regarding field seizure fine in accordance with the Law of Value Added Tax and its Implementing Regulations. Given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of Tax Violations and Disputes Committee pursuant to Royal Order No. (M/113) dated 02/11/1438 AH. Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form.

On Merits: The Department, having taken cognizance of documents included in Case file and answer of both parties after being granted a sufficient time, found that the dispute involves imposing a field seizure fine due to the absence of an invoice issue date. In addition, Paragraph (8.a) of Article (53) of the Implementing Regulations of the Law of Value Added Tax stipulates: "A simplified Tax Invoice must include the following details: A. "the date of issue". In addition, Paragraph (3) of Article (45) of the Law of Value Added Tax stipulates: "A fine not exceeding 50,000 riyals shall be imposed on any person who: 3. If the parties agree to settle before the circuit". Having taken cognizance of the entire Case file, the Department found that the violation was recorded in the field seizure report dated 16/06/2020, which was signed by the Taxpayer's representative (…): Having examined the invoices, it turned out that the invoice issue date was missing. After reviewing Invoice No. (0401) and Invoice No. (0403), the Department found that Plaintiff did not include the date on the issued invoices, thereby failing to meet tax invoice requirements set forth in Article (53.8.a) of the Implementing Regulations of the Law of Value Added Tax. As for the Plaintiff's argument that the invoice was issued manually and that, due to customer congestion and work pressure, the employee forgot to write the date, this does not

constitute a valid argument in the Case. Since the Department found that Plaintiff failed to include the issue date on the invoice, thereby violating provisions of Article (53.8.a) of the Implementing Regulations of the Law of Value Added Tax. Therefore, the Department dismisses Plaintiff's claim. Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department after deliberation unanimously decided to:

Decision:

Accept the Case in form.
Dismiss Plaintiff's claim on merits regarding field seizure in the amount of SAR 10,000.
This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under 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. VSR-2022-1072
Case No. V-62237-2021

Key words:
Value Added Tax – Field Seizure Fine – Validity of Procedure Established – Tax Certificate – Failure to Provide Evidence

Abstract

Taxpayer requests annulling ZATCA decision regarding the imposition of field seizure fine of SAR 10,000 for failing to display tax registration certificate. Regarding field seizure fine, the dispute involves the imposition of field seizure fine in the amount of SAR 10,000. The Department found that Taxpayer did not provide any evidence to demonstrate compliance with the requirement for displaying certificate. Therefore, the Department dismisses Taxpayer's claim.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article (45.3) of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- 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) dated 11/06/1425 AH
- Article 8.8 of the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Decision No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD

Facts:

The facts of this case are summarized that Plaintiff (...), C.R. No. (...), filed an objection to the field seizure fine amounting to SAR 10,000 imposed for failing to display tax registration certificate and requested canceling fine.

Having presented the statement of claims to Defendant, it answered as follows: "On 19/04/2021, ZATCA representatives visited Plaintiff's premises during a field campaign to ensure compliance with the Law of Value Added Tax and its Implementing Regulations. After inspection, it turned out that Plaintiff was in violation of Paragraph (8) of Article (8) of the Implementing Regulations of the Law of Value Added Tax that stipulates: "8. A Resident Person who is a Taxable Person and who is registered with the Authority must display the registration certificate at such Taxable Person's main place of business and branches in a manner that is visible to the general public". 2. After confirming Plaintiff's violation of the Law of Value Added Tax and its Implementing Regulations as outlined above, ZATCA imposed a fine of SAR 10,000 in accordance with Paragraph (3) of Article (45) of the Law of Value Added Tax that stipulates: "A fine not exceeding

50,000 riyals shall be imposed on any person who: 3. violates any other provision of the Law or the Regulations". and requests dismissing the Case".
On Wednesday, 01/07/1443 AH corresponding to 02/02/2022 AD, the session convened via video conference pursuant to remote litigation procedures in accordance with provisions of Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties to the Case, the Department found that (...), ID No..... appeared in his capacity as Plaintiff's attorney under POA No. (...). In addition, (...), holder of Civil ID No. (...), in his capacity as the representative of Defendant (ZATCA) under Authorization No. (...) dated 04/06/1442 AH issued by Vice Governor for Legal Affairs. Having asked Plaintiff's attorney about his principal's claim, he answered as stated in the statement of claim and insisted on the statements included therein. Having asked Defendant's representative about his answer, he answered as stated in the answer and insisted on the statements included therein. Having asked both parties if they would like to add any statements or documents, they satisfied with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

After reviewing the Case documents, and upon thorough examination, and in light of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/06/1425 AH as amended, Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.
In Form: Since Plaintiff filed the Case moving for annulling ZATCA decision regarding field seizure fine in accordance with the Law of Value Added Tax and its Implementing Regulations. Given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of Tax Violations and Disputes Committee pursuant to Royal Order No. (M/113) dated 02/11/1438 AH. Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form.
On Merits: The Department, having taken cognizance of documents included in Case file and answers of both parties after being granted a sufficient time to provide their submission, found that the dispute involves the imposition of field seizure fine of SAR 10,000 on Plaintiff for failing to display VAT registration certificate. After reviewing field seizure report dated 19/04/2021 AD, it turned out that Plaintiff did not comply with the requirement to display VAT registration certificate. In addition, Paragraph (8) of Article (8) of the Implementing Regulations of the Law of Value Added Tax stipulates: "A Resident Person who is a Taxable Person and who is registered with the Authority must display the registration certificate at such Taxable Person's main place of business and branches in a manner that is visible to the general public". Moreover, Paragraph (3) of Article (45) of the Law of Value Added Tax stipulates: "A fine not exceeding 50,000 riyals shall be imposed on any person who: 3. violates any other provision of the Law or the Regulations". Since Plaintiff did not provide any evidence to demonstrate compliance with the requirement to display the certificate. Therefore, the Department finds that Defendant's procedure outlined in imposing fine is valid.
Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department after deliberation unanimously decided to:

Decision:

First: Accept the Case in form.
Second: Dismiss Plaintiff's claim on merits regarding field seizure in question, amounting to SAR 10,000.
This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes
Second Department to Adjudicate Value Added Tax Disputes and Violations in Riyadh

Decision No. VSR-2022-1074
Case No. V-70549-2021

Key words:
Value Added Tax – Real Estate Supply – Claim for VAT Payment – Obliging Defendant to Pay Tax – Accepting Case

Abstract

Plaintiff requests obliging Defendant to pay VAT in the amount of SAR 80,437.50 for the supply of a property valued at SAR 1,608,750. Regarding VAT, the dispute involves Plaintiff's claim for Defendant to pay VAT amount of SAR 80,437.50. The Department found that Defendant did not provide any legal arguments or supporting documents that would nullify Plaintiff's right to collect VAT. Therefore, the Department accepts Plaintiff's claim for VAT due on the real estate supply in question.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article 2 of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Article (30) of Common VAT Agreement of the States of the Gulf Cooperation Council (GCC), November 2016 AD
- 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 Decision No. (1535) dated 11/06/1425 AH
- The Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Decision No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD

Facts:

Facts of the case are summarized that ....., holder of National ID number (.....), submitted a statement of claim against (…) holder of National ID No. (…), in which Plaintiff requested obliging Defendant to pay VAT in the amount of SAR 80,437.50 for the supply of a property with a total value of SAR 1,608,750. Having presented the statement of claims to Defendant, Defendant did not provide any answer despite of being duly notified of the claim that requires answer.

On Wednesday, 01/07/1443 AH corresponding to 02/02/2022 AD, the session convened via video conference pursuant to remote litigation procedures in accordance with provisions of Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties to the Case, the Department found that (...), (...) holder of National ID No. (...), appeared in his capacity as Plaintiff's attorney under POA No. (...). On the other hand, neither Defendant nor its representative appeared despite of being duly notified of session date. Having asked Plaintiff's attorney about the claim, he gave

an answer that does not differ from such statements included in the statement of claim and insisted thereon. The Department, having taken cognizance of Case file, asked Plaintiff's attorney to provide the deed. Therefore, the Department accepted the request for postponement Case consideration until Sunday, 27/02/2022, 2:00 PM.

On Sunday, 26/07/1443 AH corresponding to 27/02/2022 AD, the session convened via video conference pursuant to remote litigation procedures in accordance with provisions of Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties to the Case, the Department found that (...), (...) National ID No....., in his capacity as Plaintiff's attorney under POA No. (...). On the other hand, neither Defendant nor his representative appeared despite of being duly notified of session date. At that session, Plaintiff's attorney provided the Department with the number of new deed whereby the ownership was transferred from Plaintiff to Defendant, of the following details: Deed No. (...) dated (...). Thereupon, the Department inquired about the deed and found that the claim of Plaintiff's attorney is valid. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

Having taken cognizance of Case documents, and having perused Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, and in accordance with the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, and its Implementing Regulations issued by ZATCA Board Resolution No. (3839) dated 14/12/1438 AH as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of the States of the Gulf Cooperation Council (GCC), as well as other relevant laws and regulations.

In Form: Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form.

On Merits: Since the dispute involves Plaintiff's claim against Defendant for the payment of VAT in the amount of SAR 80,437.50 for the supply of a property with a total value of SAR 1,608,750. In addition, Article (2) of the Law of Value Added Tax stipulates: "Tax shall be imposed on the import and supply of goods and services in accordance with the provisions stipulated in the Agreement, the Law, and the Regulations". Moreover, Article (14) of the Implementing Regulations of the Law of Value Added Tax stipulates: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom". After reviewing Title Deed No. (…) dated (...), the Department found that Plaintiff, in his capacity as the owner of property in question sold, under Deed No. (…) dated (…), the mentioned property to the Defendant (…), holder of National ID No. (…) for a total value of SAR 1,608,750 on (…) corresponding to (…). The general principle is that the burden of VAT payment, as an indirect tax, falls on the recipient of goods and services unless specifically exempted under certain cases outlined in Article (30) of the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC). Since Plaintiff is registered for VAT under TIN (…) as of (…) with an effective date of (…), meaning the sale occurred during the effective period. Accordingly, Plaintiff was a taxable person at the time of sale. Since Defendant failed to appear at the session despite of being duly notified and did not provide any legal arguments or supporting documents that would nullify

Plaintiff's right to collect VAT. Therefore, the Department accepts Plaintiff's claim for VAT due on the real estate supply in question.
Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department after deliberation unanimously decided to:

Decision:

Oblige Defendant (...), (...) National ID No....., to pay Plaintiff (...), (...), holder of National ID No. (...), an amount of SAR 80,437.50 (eighty thousand four hundred thirty-seven Riyals and fifty Halalas) that outlines VAT on the purchase of the property in question from Plaintiff.
This decision was delivered in presence of both parties, and the Department set a period of thirty (30) days for the receipt of a copy of the decision. The Department may extend the deadline for receipt by an additional thirty days if deemed necessary. 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 will be final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under 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. VSR-2022-1255
Case No. V-71214-2021

Key words:
Value Added Tax – Late Registration Fine – Annulling Defendant's Decision

Abstract

Taxpayer requests annulling ZATCA decision regarding the imposition of late registration fine amounting to SAR 10,000. Regarding late registration fine, the dispute involves the imposition of late registration fine amounting to SAR 10,000. The Department found that ZATCA submitted as evidence an Excel file, which does not allow for verification of the source or accuracy of data. The document lacks any indication attributing it to its issuing entity. Therefore, the Department decided to cancel Defendant decision.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Article (50.2) of Common VAT Agreement of GCC states of November 2016
- 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 Decision No. (1535) of 11/06/1425 AH
- Paragraph (3) of Article (56) of the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Decision No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD

Facts:

The facts of this Case are summarized that Plaintiff, holder of National ID No. (...), filed an objection to the late VAT registration fine of SAR 10,000 and requested its cancellation.
Having presented the statement of claims to Defendant, it answered as follows: "With reference to the above-mentioned claim, we inform the Honorable Committee that Plaintiff did not file the claim before the General Secretariat within the prescribed period in accordance with provisions of Article (2) of Tax Dispute and Violation Committee Procedures. Since ZATCA decision regarding automatic cancellation was issued on 28/03/2021 AD, while Plaintiff filed the claim before the General Secretariat on 16/09/2022 AD, and there was a (30) day gap between ZATCA decision that rejected the objection and the date of Case registration. Therefore, the challenged decision shall be unappealable by lapse of statutory period for appeal in accordance with the above-mentioned provisions. As such, ZATCA requests the Honorable Committee to dismiss the Case in form for the above-mentioned reasons, while reserving right to provide further replies and clarifications before the closing of pleadings. ".
On Thursday, 09/07/1443 AH corresponding to 10/02/2022 AD, the session convened via video conference pursuant to remote litigation procedures in accordance with provisions of Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No.

(26040) dated 21/04/1441 AH. Having called the parties to the Case, the Department found that Plaintiff, holder of Civil ID No. (...) appeared. In addition, (...), holder of ID No. (...), appeared in her capacity as Defendant's representative by virtue of authorization No. (.....) dated 04/06/1442 AH issued by Vice Governor for Legal Affairs. Having asked Plaintiff about his claim, he answered as stated in the statement of claim and insisted on the statements included therein. Having asked Defendant's representative about his answer, he answered as stated in the answer and insisted on the procedural argument. Having taken cognizance of documents included in Case file, the Department asked Defendant's representative to provide a substantive answer to the statement of claim. Therefore, Defendant's representative requested extension. Accordingly, the Department accepted the request of Defendant's representative and postponed the hearing to Sunday, 27/02/2022, 2:00 PM.

On Sunday, 26/07/1443 AH corresponding to 27/02/2022 AD, the session convened via video conference pursuant to remote litigation procedures in accordance with provisions of Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties to the Case, the Department found that Plaintiff, holder of ID No. (...). In addition, (...), holder of ID No. (...), appeared in her capacity as Defendant's representative by virtue of authorization No. (.....) dated 04/06/1442H issued by Vice Governor for Legal Affairs. At that session the Department asked Defendant's representative about the purpose of extension granted. Therefore, Defendant's representative gave an answer that does not differ from the statements included in the answer and insisted thereon. Having presented the same to Plaintiff, Plaintiff answered: I satisfy with the earlier submissions. Therefore, the Department decided to adjourn the session for deliberation in preparation for adjudication.

Grounds

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

In Form: Since Plaintiff filed the Case moving for annulling ZATCA decision regarding late VAT registration fine in accordance with the Law of Value Added Tax and its Implementing Regulations. Given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction Tax Violations and Disputes Committee pursuant to Royal Order No. (M/113) dated 02/11/1438 AH. Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form.

On Merits: The Department, having taken cognizance of documents included in Case file and answer of each party after being granted sufficient time to provide their submissions, found that the dispute involves imposing late VAT registration fine amounting to SAR 10,000. In addition, Paragraph (2) of Article (50) of the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) stipulates: "The Mandatory Registration Threshold shall be SAR 375,000". In addition, Article (3) of the Implementing Regulations of the Law of Value Added Tax stipulates: "For registration purposes, every Resident Person in the Kingdom who is not registered by the Authority must at the end of each month calculate the value of his Supplies made in the Kingdom within the twelve months then ended, in accordance with the requirements set out in the Agreement. In cases where this value exceeds the Mandatory Registration Threshold detailed in the Agreement, the Person must apply to the Authority to register within thirty (30) days of the end of that month pursuant to Article eight of these Regulations". Since Defendant (ZATCA) imposed a late VAT registration fine on Plaintiff in accordance with Article (56) of the

Implementing Regulations of the Law of Value Added Tax, which grants ZATCA the right to obtain any directly relevant tax information maintained by a third party, the fine was imposed based on the Plaintiff's data with the Saudi Central Bank. However, Defendant provided an Excel file as evidence to support its decision, which made it impossible to verify the source and accuracy of data. The document lacked any indication of attribution to the issuing entity. Therefore, the Department concludes that Defendant's decision to impose the late VAT registration fine is invalid.

As such, and in accordance with the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC), Law of Value Added Tax and its Implementing Regulations and Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:

Decision:

Accept Plaintiff's case in form.

Accept Plaintiff's claim on merits, and annul Defendant's decision regarding the imposition of late VAT registration fine subject matter of the case.

This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under 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. VSR-2022-1256
Case No. V-64885-2021

Key words:
Value Added Tax – Payment of Value Added Tax – Late Payment Fines

Abstract

ZATCA requests obliging Defendant to pay VAT and late payment fines for the following tax periods (Q1, Q2, Q3 and Q4 of 2020 and Q1 of 2021) amounting to SAR 846,017.77. The Department found that Defendant failed to fulfill its tax obligations within the statutory deadline despite of being notified of the necessity for payment and service cessation. Therefore, the Department obliges Defendant to pay Plaintiff an amount of SAR 846,017.77.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- Paragraph (8) of Article (67) of 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 Decision No. (1535) dated 11/06/1425 AH
- Article (59) of the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Decision No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD.

Facts:

The facts of this Case are summarized that ZATCA submitted a statement of claim requesting the Department to oblige Defendant (...), holder of National ID No. (...), to pay VAT and late payment fines for the following tax period (Q1, Q2, Q3 and Q4 of 2020 and Q1 of 2021). ZATCA requests the Department to oblige Defendant to pay an amount of SAR 484,957.74.
Defendant did not provide an answer despite of being notified of the claim filed against him and the requirement to respond.
On Thursday 23/06/1443 AH corresponding to 26/01/2022 AD, the session convened via video conference pursuant to remote litigation procedures in accordance with provisions of Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties to the Case, the Department found that (...) appeared ID No..... in his capacity as the representative of Plaintiff (ZATCA) under Authorization Letter No. (...) dated 04/06/1442 AH issued by Vice Governor for Legal Affairs. In addition, (...), ID No..... appeared in his capacity as Defendant's representative under POA (...). At that session, Plaintiff's attorney requested a period to provide a corrective memorandum

and SAP document. In addition, Defendant's representative requested a period to review the statement of claim, corrective memorandum and its attachments. Accordingly, the Department decided to accept parties' requests for an extension and postpone the hearing to Sunday, 27/02/2202, 2:00 PM.

On Sunday, 26/07/1443 AH corresponding to 27/02/2022 AD, the session convened via video conference pursuant to remote litigation procedures in accordance with provisions of Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties to the Case, the Department found that (...) appeared ID No..... in his capacity as the representative of Plaintiff (ZATCA) under Authorization Letter No. (...) dated 04/06/1442 AH issued by Vice Governor for Legal Affairs. In addition, (...), ID No..... appeared in his capacity as Defendant's representative under POA No. (...). At that session, the Department asked Plaintiff's attorney about the purpose of extension. Therefore, Plaintiff's attorney responded in accordance with the supplementary memorandum and its attachments. Having asked Defendant's representative about his answer, he answered that he does not dispute the validity of tax and that his principal has not paid the tax for tax periods due to financial difficulties. He further added that he requests a period to consult with the chartered accountant to verify the accuracy of amount claimed. Having asked both parties if they would like to add any statements or documents, they satisfied with their earlier submissions at that session. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

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

In Form: Having taken cognizance of Case file, the Department found that Plaintiff filed the claim through the e-portal on 12/08/2021 AD. Since the decision in question pertains to 2020 and 2021. Therefore, the claim was filed within the five-year statutory period stipulated in Paragraph (8) of Article (67) of Income Tax Law as amended by Royal Decree No. (M/113) that stipulates: "Tax dispute lawsuits may not be heard upon the lapse of five years from the maturity date of the amount subject of the claim or the date of knowledge of the incident subject to the dispute, except in the presence of grounds acceptable by the Committee". Therefore, the Department accepts the Case in form.

On Merits: Since Plaintiff filed the Case moving for obliging Defendant to pay the amount of SAR 484,957.74 that outlines VAT and the late payment fine for the following tax periods (Q1, Q2, Q3 and Q4 of 2020 and Q1 of 2021), and submitted a corrective memorandum to adjust the amount claimed to be: SAR 846,017.77. Since the Department found that Defendant has violated provisions of Article (59) of the Implementing Regulations of the Law of Value Added Tax that stipulates: "Payment of Tax due by a Taxable Person in respect of a Tax Period must be made at the latest by the last day of the month following the end of that Tax Period". Since Defendant failed to fulfill his tax obligations within the statutory deadline despite of being notified of the necessity of payment and being informed of service cessation. Given that Defendant did not provide an answer to the Case, which constitutes negligence and failure to meet tax obligations towards the state's rights. For these grounds and after legal deliberation, the Department unanimously decided as follows:

Decision:

Oblige Defendant, holder of National ID No. (...), to pay Plaintiff (ZATCA) an amount of SAR 846,017.77 (eight hundred forty-six thousand seventeen Riyals and seventy-seven Halalas) that outlines VAT and late payment fines for tax period in question.

This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under 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. VSR-2022-1349
Case No. R-64473-2021

Key words:
Value Added Tax – Valid Notification Established – Bank Financing – Dismissing the Case

Abstract

Plaintiff requests obliging Defendant either to pay VAT or provide proof of paying VAT amounting to SAR 32,500, which Plaintiff had paid to Defendant as a result of a property sale. Regarding VAT payment, the dispute involves Plaintiff's claim for Defendant to pay a VAT amount of SAR 90,000. The Department found that Plaintiff was unable to provide clear answer to its inquiries and clarify the ambiguity. Since the rulings and decisions must be based on certainty and conviction, rather than speculation and doubt. Therefore, the Department dismisses the claim.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- 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) dated 11/06/1425 AH
- Article 20.6 of the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Decision No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD

Facts:

The facts of the case are summarized in that ....., holder of National ID No. ....., submitted a statement of claim against Defendant (...), holder of National ID No. (...), requesting that Defendant either pay or provide proof of paying VAT amounting to SAR 32,500 that Plaintiff had paid to Defendant as a result of a property sale.
Having presented the statement of claims to Defendant, Defendant did not provide any answer despite of being duly notified of the claim that requires answer.
On Thursday, 10/06/1443 Ah, 13/01/2022 AD, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. 21/04/1441 AH. Having called the parties to the Case, the Department found that Plaintiff (...), (Saudi National), holder of National ID No. (...). On the other hand, neither Defendant nor his representative appeared despite of being notified of session date. Having asked Plaintiff about the claim, Plaintiff answered as stated in the statement of claim and insisted thereon.

At that session, the Department decided to include (...) Banking Investment Company (financing party) in accordance with Article (80) of the Law of Civil Procedure, as the Department deemed it necessary to direct certain questions to the newly included party. Therefore, the Department decided to postpone the hearing to Sunday, 27/02/2022, 1:00 PM.

On Sunday, 26/07/1443 AH, corresponding to 27/02/2022, the session was convened via virtual communication in accordance with remote litigation procedures based on Clause No. (2) of Article (15) of Tax Dispute and Violation Committee Procedures, issued by Royal Order No. (26040) dated 21/04/1441 AH. 21/04/1441 AH. Having called the parties to the Case, the Department found that Plaintiff (...), (Saudi National), holder of National ID No. (...). On the other hand, neither Defendant nor his representative appeared despite of being duly notified of session date, nor did the representative of the included party, (...) Banking Investment Company despite of being duly notified. At that session, the Department asked Plaintiff about the amounts mentioned in the receipt dated 18/02/1440 AH. Plaintiff stated that Defendant had received SAR 90,000 that outlines VAT on the real estate supply in question, in addition to a brokerage fee of SAR 15,000. In addition, Plaintiff stated that Defendant had refunded Plaintiff an amount of SAR 42,500 after obtaining tax exemption certificate for the first home. Therefore, the Department decided to postpone the hearing to Sunday, 06/03/2022, 1:00 PM for further review.

On Sunday, 03/08/1443 AH, corresponding to 06/03/2022, the session was convened via virtual communication in accordance with remote litigation procedures based on Clause No. (2) of Article (15) of Tax Dispute and Violation Committee Procedures, issued by Royal Order No. (26040) dated 21/04/1441 AH. 21/04/1441 AH. Having called the parties to the Case, the Department found that Plaintiff (...), (Saudi National), holder of National ID No. (...). Neither Defendant nor his representative appeared despite of being duly notified. At that session, the Department, having taken cognizance of documents included in Case file, decided to close pleadings in preparation for adjudication.

Grounds

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of GCC States, the relevant laws and regulations.

In Form: Since the Case was filed by a person with capacity. Therefore, the Department accepts the Case in form.

On Merits: Since the dispute involves Plaintiff's claim against Defendant for the paying VAT amounting to SAR 90,000 that Plaintiff had paid to Defendant (Seller) as a result of purchasing a property through bank financing. In addition, Paragraph (6) of Article (20) of the Implementing Regulations of the Law of Value Added Tax stipulates: "The supply date of Real Estate transferred by the competent Authority in accordance with the procedures of the Special Registration Mechanism contained in Article (9) of these Regulations, shall be the date of completing the transfer procedures in the competent Authority". Since the property in question, specifically Plot No. (...), Scheme No. (/) located in Qurtubah District, Riyadh, was transferred from Defendant to (...) Company under Title Deed Transfer No. (...) dated 22/4/1440 AH, for an amount of SAR 1,500,000. Having taken cognizance of Case file and considering Plaintiff's statements during the session held for considering this case, the Department found that Plaintiff paid an amount of SAR 90,000 to Defendant, which is the subject of the claim, attaching a receipt confirming that (...) Company received this amount as VAT and commission for the sale of villa. The Department

sought to clarify the ambiguity by asking Plaintiff about the reason for paying VAT amount to the seller or his representative. The property buyer was (...) Company, which, according to Plaintiff's claim, claimed Defendant to pay VAT amount. This caused the Department to request the inclusion of (...) Company to ensure the validity of this claim, but the Company failed to appear. Furthermore, it turned out that the amount paid does not constitute VAT due. Since Plaintiff was unable to provide a clear answer to the Department's inquiries and clarify the ambiguity. Since the rulings and decisions must be based on certainty and not on speculation or doubt. Therefore, the Department decided to dismiss the claim.

As such, and in accordance with the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC), Law of Value Added Tax and its Implementing Regulations and Tax Dispute and Violation Committee Procedures, and after deliberation, the Department unanimously decided to:

Decision:

Dismissing Case.

This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under 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. VSR-2022-1353
Case No. V-59225-2021

Key words:
Value Added Tax – Validity of the Claim Established – Tax Payment Obligation – Obliging Defendant

Abstract

Plaintiff requests obliging Defendant to pay the Value Added Tax (VAT) amounting to SAR 27,500. Regarding VAT payment, the dispute involves Plaintiff's claim against Defendant for paying of VAT amounting to SAR 27,000. The Department found that Plaintiff had sold a property to Defendant, as per his acknowledgment, making transaction subject to VAT on the supply. Therefore, the Department obliges Defendant to pay VAT for the sale of property in question.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article 2 of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Article (30) of Common VAT Agreement of the States of the Gulf Cooperation Council (GCC), November 2016 AD
- 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 Decision No. (1535) dated 11/06/1425 AH
- Article (14) of the Implementing Regulations of the Law of Value Added Tax issued by resolution of the Board of Directors of ZATCA No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD

Facts:

The facts of the case are summarized in that ....., holder of National ID No. ....., in his capacity as attorney of Plaintiff, holder of National ID No. (...), under POA No. (...), filed a claim against Defendant (... Bank), C.R. No. (...), requesting to oblige Defendant to pay VAT amounting to SAR 27,500 SAR. In addition, Plaintiff requests obliging Defendant to make the payment.

Having presented the statement of claim to Defendant, Defendant answered as follows: Since Plaintiff, as the seller of property, was neither registered nor tax-disclosed with ZATCA at the time of contract execution and property transfer. Therefore, the Bank proceeded to remit VAT to ZATCA based on Tax Invoice No. (...) dated 14/10/2018 AD. Given that the Bank took the initiative to pay VAT and subsequently recovered its value through the First Home Certificate. Thereupon, (...) requests the Department to dismiss of the claim as it is groundless". End of Answer.

On Wednesday, 13/08/1443 AH corresponding to 16/03/2022 AH, the Department held its session via video conference pursuant to remote litigation procedures in accordance with

Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties to the Case, the Department found that Plaintiff, holder of Civil ID No. (...), appeared. In addition, (...), holder of Civil ID No. (...), appeared in his capacity as Defendant's attorney under POA No. (...). Having asked Plaintiff about his claim, he answered as stated in the statement of claim and insisted on the statements included therein. Having asked Defendant's attorney about his answer, he answered as stated in the answer and insisted on the statements included therein. Having asked both parties if they would like to add any statements or documents, they satisfied with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of GCC States, the relevant laws and regulations.

In Form: Since the Case was filed by a person with capacity. Therefore, the Department accepts the Case in form.

On Merits: Since the dispute involves Plaintiff's claim against Defendant for the payment of VAT in the amount of SAR 27,500 for supplying a property valued at SAR 550,000 to Defendant, as stated in Deed No. (...) dated (...) corresponding to (...). The property was subsequently sold to Defendant's client, citizen (...), through a mortgage financing arrangement as per the Residential Unit Purchase Agreement No. (...) dated (...) In addition, Article (2) of the Law of Value Added Tax stipulates: "Tax shall be imposed on the import and supply of goods and services in accordance with the provisions stipulated in the Agreement, the Law, and the Regulations". Moreover, Article (14) of the Implementing Regulations of the Law of Value Added Tax stipulates: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom". Since the principal rule in bearing the burden of VAT, as an indirect tax on received goods and services, shall be the responsibility of the client or buyer (recipient of goods and services), except in specific cases explicitly exempted under Article (30) of the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC). Given that Plaintiff has sold a property to Defendant as per his own acknowledgment, thereby making the transaction subject to VAT, especially since Plaintiff is registered for VAT under number (...) dated (...) with an effective date of (…), which was in effect at the time of property transfer. Therefore, the Department accepts Plaintiff's claim.

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

Decision:

Oblige Defendant, C.R. No. (...), to pay Plaintiff, holder of Civil ID No. (...), an amount of (SAR 27,500.00) twenty-seven thousand five hundred Riyals that outlines VAT due on the purchase of property in question.

This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes
Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh

Decision No. VTR-2022-569
Case No. V-75666-2021

Key words:
Value Added Tax – Field Seizure Fine – Failure to Display VAT Inclusive Prices – Simplified Invoice Requirements – Violation of Law of Value Added Tax and Its Implementing Regulations – Dismissing Case

Abstract

Taxpayer requests annulling ZATCA decision regarding the field seizure fine for failing to display VAT inclusive prices, amounting to SAR 10,000. Regarding the field seizure fine, the Department found that Defendant issued its decision to impose the fine due to violating requirement to display VAT-inclusive prices, amounting to SAR 10,000 as stated in fine notice for the field inspection violation. Therefore, the Department dismisses Taxpayer's claim.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Paragraph (1) of Article (2) and Paragraph (3) of Article (45) of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH.
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- 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 Decision No. (1535) dated 11/06/1425 AH
- Paragraph (8.e) of Article (53) of the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Decision No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD

Facts:

The facts of this Case are summarized that Plaintiff (... Company), C.R. No. (...), represented by (...), holder of National ID No. (...), submitted a statement of claim objecting to Defendant's decision to impose a field seizure fine for failing to display VAT-inclusive prices, amounting to SAR 10,000, and requests annulling the decision.

Having presented the statement of claim to Defendant (ZATCA), Defendant answered as follows: On 15/08/2021 AD, ZATCA representatives visited Plaintiff's premises and examined the invoices issued by Plaintiff. After review, it turned out that the invoices were in violation of provisions stipulated in Paragraph (2) of Article (2) of the Law of Value Added Tax and Paragraph (8) of Article (53) of the Implementing Regulations of the Law of Value Added Tax, as they did not include VAT amount payable at the statutory rate. After confirming Plaintiff's violation of provisions of the Law of Value Added Tax and its Implementing Regulations as outlined above, ZATCA imposed a fine of SAR 10,000 in accordance with Paragraph (3) of Article (45) of the Law

of Value Added Tax that stipulates: "A fine not exceeding 50,000 riyals shall be imposed on any person who: 3. Violates any other provision of the Law or the Regulations." Defendant representative concluded his Reply with requesting dismissal of the case. End of Answer.
On Monday, 28/03/2022 AD, the session convened via video conference pursuant to remote litigation procedures in accordance with provisions of Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties to the Case, the Department found that neither Plaintiff or his attorney appeared. In addition, (...), National ID No....., in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated (.....) issued by Vice Governor for Legal Affairs. Having asking Defendant's representative about his answer, he answered by insisting on the statements included in the answer provided. Since the Case was ripe for adjudication in accordance with provisions of Article (20) of Tax Dispute and Violation Committee Procedures. Therefore, the Department decided to adjourn the session for deliberation in preparation for adjudication.

Grounds

Having taken cognizance of documents included in Case file, and perused the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) of 03/05/1438 AH, Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by Board of Directors of the General Authority of Zakat and Income Resolution No. (3839) dated 14/12/1438 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, the Department concluded that:
In Form: Since Plaintiff filed the Case moving for objecting to Defendant's decision regarding the imposition of field seizure fine for failure to display VAT-inclusive prices in accordance with Law of Value Added Tax and its Implementing Regulations. Since this dispute is a tax dispute, it falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form.
On Merits: Having taken cognizance of documents included in Case file and answers of both parties after being granted sufficient time to present their arguments, the Department found that Defendant issued its decision to impose a field seizure fine for failing to display VAT-inclusive prices, amounting to SAR 10,000, based on fine notice, which included details of the field violation under No. (...) dated 15/08/2021 AD, specifying violation as "failure to indicate that prices are VAT inclusive". In addition, Defendant submitted the field seizure report dated 15/08/2021 AD, which documented the nature of violation as "failure to clarify that the price is VAT inclusive". Moreover, Defendant provided the invoices subject to the violation, including Invoice No. (...) dated 15/08/2021 AD, which showed that no VAT was calculated on the price of sold goods, nor did it indicate that the price is VAT inclusive in accordance with Paragraph (1) of Article (2) of the Law of Value Added Tax that stipulates: "Tax shall be imposed on the import and supply of Goods and Services in accordance with the provisions stipulated in the Agreement, the Law and the Regulations". In addition, Paragraph (8.e) of Article (53) of the Implementing Regulations of the Law of Value Added Tax stipulates: "A simplified Tax Invoice must include the following details: the Tax payable or a statement that the Consideration is inclusive of Tax in respect of the Supply of the Goods or services". Moreover, Paragraph (3) of Article (45) of the Law of Value Added Tax stipulates: "A fine not exceeding 50,000 riyals shall be imposed on any person who: 3. violates

any other provision of the Law or the Regulations". Therefore, the Department dismisses Plaintiff's claim by annulling Defendant's decision of imposing fine in question.
Thereupon, the Department, after deliberation, unanimously decided as follows:

Decision:

To dismiss Plaintiff case.
The decision was made in the presence of both parties, and the Department has allocated thirty days for receipt of decision copy. The Department may extend this period by an additional thirty days if necessary. According to Article (42) of the Rules of Tax Dispute and Violation Committee Procedures, this decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Committee for Determination of Tax Violations and Disputes
Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh

Decision No. VTR-2022-141
Case No. V-63741-2021

Key words:
Value Added Tax **– Late Payment Fine – Validity of Procedure Established – Dismissing the Case**

Abstract

Taxpayer requests annulling ZATCA decision regarding the late payment fine for the tax period of May 2020. Regarding the late payment fine, the Department, based on the statement of Defendant's representative during the session, found that Taxpayer did not settle the due tax amount within the statutory period, nor did Taxpayer provide any evidence to the contrary. Therefore, the Department dismisses the claim.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 21/04/1441 AH
- Article 43 of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common VAT Agreement of GCC states of November 2016
- 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 Decision No. (1535) dated 11/06/1425 AH
- Article 65.2 of the Implementing Regulations of the Law of Value Added Tax issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly) No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD

Facts:

The facts of this Case are summarized that (...) Company, C.R. No. (...), represented by (...), holder of National ID No. (...), in his capacity as the legal representative of Plaintiff Company, submitted a statement of claim that included objection to the late payment fine related to tax period for May 2020.

Having presented the statement of claim to Defendant (ZATCA), Defendant argued that the decision is unappealable in accordance with Paragraph (1) of Article (3) of Tax Dispute and Violation Committee Procedures, where ZATCA decision of imposing fine was issued on 05/07/2021 AD. In addition, Defendant's representative concluded his memorandum by requesting the Department to dismiss the Case. End of Answer.

On Monday, 17/01/2022 AD, the session convened via video conference pursuant to remote litigation procedures in accordance with provisions of Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties to the Case, the Department found that neither Plaintiff nor his attorney

appeared. In addition, (...), (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated 08/03/1442 AH issued by Vice Governor for Legal Affairs. Having asked Defendant's representative about his answer, he answered as stated in the answer and requested the Department to dismiss the Case. In addition, ZATCA representative added that Plaintiff did not pay tax liabilities to date and fines result from delay in payment. Since the Case was ripe for adjudication in accordance with Article (20) of Tax Dispute Violation Committee Procedures. Therefore, the Department decided to adjourn the session for deliberation in preparation for adjudication.

Grounds

Having taken cognizance of documents included in Case file, and perused the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by Board of Directors of the General Authority of Zakat and Income Resolution No. (3839) dated 14/12/1438 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, the Department considered the Case:

In Form: Since Plaintiff filed the Case moving for objecting tax amount and fines related to tax period for May 2020 in accordance with the Law of Value Added Tax and its Implementing Regulations. Since this dispute is a tax dispute, it falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form.

Regarding Defendant's argument that there is a defect in form, specifically Plaintiff's failure to initially file an objection with ZATCA before bringing the Case, the response is that Plaintiff attempted to submit an objection to ZATCA. However, ZATCA required a financial guarantee for the objection to be accepted. In addition, Paragraph (2) of Article (65) of the Implementing Regulations of the Law of Value Added Tax stipulates: "In cases where a formal review or appeal is lodged against an appealable decision, and the Authority has evidence or reason to doubt that the Taxable Person may not pay the disputed Tax, the Authority may require a cash security or bank guarantee from the Taxable Person up to a maximum value of the unpaid amount of Tax and associated penalties arising in connection with the decision. A notification requiring cash security or a bank guarantee shall be issued in writing". It turned out that the requirement for a financial guarantee, as per provisions of the mentioned paragraph, is an exception subject to several conditions, including the existence of a case of doubt, an upper limit on the guarantee amount, and the requirement for the guarantee request to be in writing. This confirms that the legislator intended for the financial guarantee requirement in objection cases to be applied in limited circumstances, ensuring that Taxpayer does not lose the right to resort to litigation. After reviewing ZATCA procedure in this matter, the Department found that ZATCA had expanded the requirement for a financial guarantee to apply to all cases of objections to reassessments, contrary to provisions of Paragraph (2) of Article (65) of the Implementing Regulations of the Law of Value Added Tax. Therefore, the Department overlooks ZATCA argument in this regard.

On Merits: The Department, having taken cognizance of documents included in Case file and answer of each party after being granted sufficient time to provide their submissions, found that the dispute involves objecting to late payment fine related to tax period for May 2020. In addition, Article (43) of the Law of Value Added Tax stipulates: "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of

the unpaid Tax for each month or part thereof for which the Tax has not been paid". The Department found, based on the statement of Defendant's representative during the hearing, that Plaintiff did not pay the due tax amount within the statutory period, nor was any evidence provided to prove otherwise. Therefore, the Department concludes that Defendant's procedure outlined in imposing fine was valid.
In light of the foregoing, and after deliberation, the Department unanimously decided to:

Decision:

Accept case in form.
Dismiss the Case on merits.
This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under 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. VR-2022-482
Case No. V-53074-2021

Key words:
Value Added Tax – Late VAT Registration Fine – Mandatory Registration Threshold – Canceling Fine

Abstract

Taxpayer requests annulling ZATCA decision regarding the imposition of a late registration fine amounting to SAR 10,000. Regarding the imposition of late registration fine, the dispute involves Defendant's procedure outlined in imposing late registration fine. The Department found that ZATCA did not provide sufficient evidence to prove that Taxpayer's revenues exceeded the mandatory registration threshold. Therefore, the Department annuls ZATCA decision regarding the imposition of late registration fine.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article 41 of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Article (1) and Paragraph (1) of Article (50) of Common VAT Agreement of the States of the Gulf Cooperation Council (GCC), November 2016 AD
- 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 Decision No. (1535) dated 11/06/1425 AH
- The Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Decision No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD

Facts:

The facts of this Case are summarized that (...), holder of National ID No. (...), in his capacity as the owner of (...), C.R. No. (...), submitted a statement of claim objecting to ZATCA decision outlined in imposing late registration fine amounting to SAR 10,000 and requested canceling the imposed fine.

On Tuesday, 08/03/2022, the Department held its first session remotely via remote video litigation procedures in accordance with provisions of Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties to the Case, the Department found that Plaintiff (...), and (...), holder of National ID No. (...), appeared on behalf of ZATCA under Authorization No. (...). After verifying attendance of both litigants, by displaying their national ID cards using a magnifying window, and verifying the capacity of both litigants, the Department decided to proceed with case consideration. In addition, Plaintiff requests annulling ZATCA decision regarding the imposition of late

registration fine amounting to SAR 10,000. Based on the details outlined in the statement of claim, and having asked Defendant's representative about his answer to Plaintiff's claim, Defendant's representative procedurally argued that the claim is time-barred in accordance with Article (49) of the Law of Value Added Tax, as Plaintiff was notified of fine imposition notice on 07/02/2021 AD, while the Case was not filed until 03/06/2021 AD. Having asked both parties if they would like to add any statements or documents, Plaintiff stated obtaining a commercial registration but was unable to start the business, as the activity involves mobile vehicle washing and Plaintiff has no employees or income that would require registration in VAT system, noting that ZATCA registered me on its own initiative. Having asked ZATCA representative about the reason for registering Plaintiff in VAT system, ZATCA representative stated that the registration was based on financial transfers and requested time to provide details of such transfers and their amounts in the next session. After deliberation, the Department decided to respond to the request of ZATCA representative, by giving him one week to provide the required documents, provided that Plaintiff is provided with a copy thereof for answer, and adjourn Case consideration until Tuesday, 22/03/2022 AD.

On Tuesday, 22/02/2022 AD, the Department held its session via video conference pursuant to remote litigation procedures in accordance with provisions of Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties to the Case, the Department found that Plaintiff (...), and (...), holder of National ID No. (...), appeared on behalf of ZATCA under Authorization No. (...). After verifying attendance of both litigants, by displaying their national ID cards using a magnifying window, and verifying the capacity of both litigants, the Department decided to proceed with case consideration. Having asked ZATCA representative about what he was granted time for in the preceding session, ZATCA representative stated that he had submitted a statement elaborating the amounts withdrawn from Plaintiff's Enterprise account for 2019 and 2020, which indicate that the mandatory registration threshold had been exceeded. In addition, ZATCA representative confirmed that he had nothing further to add beyond what had already been submitted. He had nothing further to add beyond what had already been submitted. Whereas the matter was mentioned, and after discussion, the Department decided to close the pleading and adjourn the session for deliberation and issuance of a decision.

Grounds

Having taken cognizance of documents included in Case file, and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by Board of Directors of the General Authority of Zakat and Income Resolution No. (3839) dated 14/12/1438 AH as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) and the relevant laws and regulations.

In Form: Since Plaintiff filed the Case moving for annulling Defendant's decision regarding late VAT registration fine in accordance with the Law of Value Added Tax and its Implementing Regulations. Since this dispute is a tax dispute, it falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form.

On Merits: Having taken cognizance of Case documents and answer of each party after being granted sufficient time to present their arguments, the Department found that the dispute involves Defendant's procedure outlined in imposing late VAT registration fine due the fact that Plaintiff's revenues exceed the mandatory registration threshold and failing to register for VAT upon

reaching this threshold. Since Defendant was the party who registered Plaintiff in VAT system, and since Defendant did not provide evidence proving that Plaintiff's revenues exceeded the mandatory registration threshold. In addition, the definition of mandatory registration threshold stated in Article (1) of the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) states: "The minimum limit of the value of actual supplies at which the Taxable Person becomes obligated to register for Tax purposes". In addition, Taxable Person is defined in Articles (1) of the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) as follows: "A Person conducting an Economic Activity independently for the purpose of generating income, who is registered or obligated to register for VAT in accordance with the provisions of this Agreement". Moreover, Paragraph (1) of Article (50) of the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) stipulates: "For the purposes of implementing this Agreement, a Taxable Person shall be obliged to register if: a) he is resident in any Member State; b) the value of his annual supplies in that Member State exceeds or is expected to exceed the Mandatory Registration Threshold". Furthermore, Article (41) of the Law of Value Added Tax stipulates "Any Person who has not applied for registration within the period specified in the Regulations shall be fined ten thousand (10,000) riyals". Since it was not established that the provisions of the aforementioned articles applied to the case of the Taxable Person, this requires canceling fine imposed on Plaintiff.

Decision:

First: Accept Plaintiff's case in form.
Second: On Merits: Annul ZATCA decision regarding the imposition of late VAT registration fine amounting to SAR 10,000.
Third: This decision was rendered in presence of both parties. In addition, the Department has set a period of thirty (30) days for receiving a copy of the decision, and may extend delivery date for another thirty (30) days. This decision shall be final and enforceable in accordance with provisions of Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Committee for Determination of Tax Violations and Disputes
Second Department for Determination of Income Tax Disputes and Violations in Dammam

Decision No. VSR-2022-934
Case No. ZIW-17577-2020

Key words:
Value Added Tax – Field Seizure Fine – Simplified Invoice Requirements – Absence of Tax Identification Number

Abstract

Taxpayer requests annulling ZATCA decision regarding the field seizure fine due to the absence of Tax Identification Number "TIN". The Department found that the invoices submitted by Defendant confirm that the invoices were issued without including TIN. Therefore, the Department dismisses Plaintiff's claim on merits regarding field seizure fine in the amount of SAR 10 000.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article (45.3) of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- 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 Decision No. (1535) dated 11/06/1425 AH
- Paragraph (8) and (8.b) of Article (53) of the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Decision No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD

Facts:

The facts of this Case are summarized that (...), holder of National ID No. (...), in his capacity as the owner of (...), C.R. No. (...), submitted a statement of claim objecting to the field seizure fine due to the lack of TIN and requests its cancellation.
Having presented the statement of claims to Defendant, it answered as follows: "On 29/01/2020 AD, ZATCA representatives visited Plaintiff's premises and examined the simplified invoices provided by Plaintiff during the field campaign to ensure compliance with the Law of Value Added Tax and its Implementing Regulations. Upon inspection, it turned out that the invoices did not meet the requirements for simplified invoices as stipulated in Paragraph (8.b) of Article (53) of the Implementing Regulations of the Law of Value Added Tax, which stipulates: "b) The name, address and Tax Identification Number of the Supplier"". 2. After confirming Plaintiff's violation of provisions of the Law of Value Added Tax and its Implementing Regulations as outlined above, ZATCA imposed a fine of SAR 10,000 in accordance with Paragraph (3) of Article (45) of the Law of Value Added Tax that stipulates: "A fine not exceeding 50,000 riyals shall be imposed on any

person who: 3. violates any other provision of the Law or the Regulations". Thereupon, ZATCA requests the Department to dismiss the Case and upholds ZATCA decision".
On Wednesday, 09/02/2022 AD, the session convened via video conference pursuant to remote litigation procedures in accordance with provisions of Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called the parties to the Case, the Department found that neither Plaintiff nor his representative appeared despite of being duly notified of session date. In addition, (...), holder of Civil ID No. (...), appeared in her capacity as Defendant's representative by virtue of authorization No. (.....) dated (.....) issued by Vice Governor for Legal Affairs. Since the Department decided to proceed with the Case due to the fact that it is ripe for adjudication in accordance with provisions of Article (20) of Tax Dispute and Violation Committee Procedures. Therefore, the Department asked Defendant's representative about his answer to the statement of claim, he gave an answer that does not differ from such statements included in the answer and insists thereon. Thereupon, the Department decided to adjourn the session for deliberation in preparation for adjudication.

Grounds

After reviewing the Case documents, and upon thorough examination, and in light of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/06/1425 AH as amended, Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.
In Form: Since Plaintiff filed the Case moving for annulling field seizure fine in accordance with the Law of Value Added Tax and its Implementing Regulations. Given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of Tax Violations and Disputes Committee pursuant to Royal Order No. (M/113) dated 02/11/1438 AH. Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form.
On Merits: The Department, having taken cognizance of Case documents and answers of both parties after being granted sufficient time to present their arguments, found that Plaintiff requests annulling a fine for violating provisions of the Law or Regulations in the amount of SAR 10,000 due to the lack of TIN in the invoice. In addition, Paragraph (8) of Article (53) of the Implementing Regulations of the Law of Value Added Tax, related tax invoices, stipulates: "A simplified Tax Invoice must include the following details: b) The name, address and Tax Identification Number of the Supplier". In addition, Paragraph (3) of Article (45) of the Law of Value Added Tax stipulates: "A fine not exceeding 50,000 riyals shall be imposed on any person who: 3. violates any other provision of the Law or the Regulations". Having taken cognizance of field seizure report dated 29/01/2021 AD for (...) Enterprise, the violation was described as follows: "Tax invoices do not include TIN or VAT rate". In addition, the invoices submitted by Defendant, No. (...) dated 26/12/2019 AD, No. (...) dated 28/01/2020 AD, No. (...) dated 28/01/2020 AD, it was confirmed that the invoices were issued without TIN. Accordingly, Plaintiff is considered in violation of tax invoice requirements in accordance with Paragraph (8.b) of Article (53) of the Implementing Regulations of the Law of Value Added Tax. Regarding Plaintiff's claim that the invoices in question are the laboratory's internal copies rather than those issued to the client, Plaintiff has not provided any evidence to support this claim. Therefore, the Department determines the validity of Defendant's procedure outlined in imposing a fine of SAR 10,000 for violating provisions of

the Law or Regulations in accordance with Paragraph (3) of Article (45) of the Law of Value Added Tax.

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

Decision:

First: Accept Plaintiff's case in form.

Second: Dismiss Plaintiff's claim on merits regarding field seizure fine in the amount of SAR 10,000.

This decision was issued in presence of both parties, and the Department set a period of thirty (30) days for the receipt of a copy of the decision. The Department may extend the deadline for receipt by an additional thirty days if deemed necessary. In addition, the decision shall be considered final and enforceable in accordance with provisions of Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Committee for Determination of Tax Violations and Disputes First Department to Adjudicate Value Added Tax Violations and Disputes inDammam

Decision No. VD-2022-28
Case No. V-62672-2021

Key words:
Value Added Tax – Field Seizure Fine – Failure to Comply with Tax Invoice Requirements – Violation of Simplified Invoice Conditions – Failure to Collect Tax from End Consumer – Failure to Include Tax Amount in the Invoice.

Abstract

Taxpayer requests annulling ZATCA decision regarding the imposition of field seizure fine in the amount of SAR 10,000 for failure to comply with tax invoice requirements due to failure to collect VAT and requests canceling fine. In addition, Taxpayer argues that ZATCA inspector did not inform ZATCA of the violation at the time of the field inspection. Having taken cognizance of the field seizure report provided by ZATCA on 23/05/2021 AD, it turns out that the violation pertains to the failure to include VAT amount payable or to indicate that the price is VAT inclusive in tax invoices. Although ZATCA did not attach the invoices in question, Taxpayer admitted in the statement of objection that Taxpayer did not collect the tax from the end consumer. This constitutes a breach of tax invoice requirements in accordance with Paragraph (8.e) of Article (53) of the Implementing Regulations of the Law of Value Added Tax. Therefore, the Department ruled to dismiss the Taxpayer's case.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Paragraph (2) of Article (2), Paragraph (1) of Article (23) and Article (45) of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Paragraph (8.e) of Article (53) of the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Resolution No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD
- Common VAT Agreement of GCC states of November 2016

Facts:

Facts of the case are summarized that ....., holder of National ID number (.....), in his capacity as the owner of (...) Enterprise, C.R. No. (...), submitted a statement of claim objecting to ZATCA decision regarding the imposition of field seizure fine amounting to SAR 10,000 for failure to comply with tax invoice requirements due to failure to collect VAT and requests canceling fine.
Having presented the statement of claims to the Defendant, it responded as follows: First: On Merits: 1. On 23/05/2021 AD, ZATCA representatives visited Plaintiff's premises and examined the simplified invoices provided by Plaintiff during the field campaign to ensure compliance with the Law of Value Added Tax and its Implementing Regulations. After inspection, it turned out that the invoices did not meet provisions of Paragraph (2) of Articles (2) of the Law of Value

Added Tax and requirements for simplified invoices as stipulated in Paragraph (8) of Article (53) of the Implementing Regulations of the Law of Value Added Tax, which stipulates: "A simplified Tax Invoice must include the following details: e) the Tax payable or a statement that the Consideration is inclusive of Tax in respect of the Supply of the Goods or services". Since the invoices did not include the value of due tax at the rate stipulated by law. (Attached) 2. After confirming Plaintiff's violation of provisions of the Law of Value Added Tax and its Implementing Regulations as outlined above, ZATCA imposed a fine of SAR 10,000 in accordance with Paragraph (3) of Article (45) of the Law of Value Added Tax that stipulates: "A fine not exceeding 50,000 riyals shall be imposed on any person who: 3. violates any other provision of the Law or the Regulations". Defendant representative concluded his Reply with requesting dismissal of the case. End of Answer.

On Wednesday, 12/01/2022 AD, the Department held a session in accordance with remote litigation procedures. At this session, Defendant appeared. On the other hand, Plaintiff did not appear despite of being notified of session date and method of convention. In addition, Defendant's representative (...), holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated (.....) issued by Vice Governor for Legal Affairs. Having presented the same to Defendant's representative, he requested proceeding with the Case and issuing decision. Therefore, the Department decided to adjourn the session for deliberation and issue a decision.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since Plaintiff filed the Case moving for annulling Defendant's decision regarding the imposition of field seizure fine in due to failure to comply with tax invoices requirements. Since this dispute is a tax dispute, it falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form.

On Merits: Having taken cognizance of Case documents and answers of both parties after being granted sufficient time to present their arguments, it turns out that the dispute between Plaintiff and Defendant involves the imposition of a fine for violating provisions of the Law or Regulations. This violation stems from the failure to include tax due in the invoice or indicate that the consideration includes tax, as documented in seizure report. In addition, Plaintiff requests canceling fine, arguing economic hardship and claiming that failure to collect tax from customers serves as a means of attracting them to the store. Paragraph (2) of Article (2) of the Law of Value Added Tax stipulates: "The tax shall be applied at a standard rate of 15% on the value of supply or import, unless an exemption or zero rate is explicitly provided, in accordance with provisions of the Law and Regulations, for the supply itself". In addition, Paragraph (1) of Article (23) of the Law of Value Added Tax, related to tax invoices, stipulates: "The Regulations shall determine the following: 1. The contents and form of tax invoices, and the periods for the issuance thereof". In addition, Paragraph (8) of Article (53) of the Implementing Regulations of the Law of Value Added Tax, related to tax invoices, stipulates: "A simplified Tax Invoice must include the following details: e) the Tax payable or a statement that the Consideration is inclusive of Tax in respect of the Supply of the Goods or services". In addition, Article (45) of the Law of Value Added Tax stipulates "A

fine not exceeding 50,000 riyals shall be imposed on any person who: 3. violates any other provision of the Law or the Regulations".

Having taken cognizance of the entire Case file and the presented arguments, it turns out that Plaintiff requests canceling fine on the ground that ZATCA inspector did not inform Plaintiff of the violation at the time of field inspection. However, upon referring to the field seizure report provided by Defendant on (…), it turns out that the violation pertains to failure to include tax due in the invoice or indicate that the consideration includes tax in the issued tax invoices. Although Defendant did not attach the specific invoices in question, Plaintiff admitted in the statement of objection that Plaintiff did not collect the tax from the end consumer. Thereupon, Plaintiff violated the mandatory requirements for tax invoices as stipulated in Paragraph (8.e) of Article (53) of the Implementing Regulations of the Law of Value Added Tax. Therefore, the Department dismisses Plaintiff's claim. Accordingly, and in accordance with the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC), Law of Value Added Tax and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided:

Decision:

To dismiss Plaintiff case.

This decision was delivered in presence of both parties and read out publicly at the session. In addition, the Department has set a period of thirty (30) days for receiving a copy of the decision, and may extend delivery date for another thirty (30) days. This decision shall be final and enforceable in accordance with provisions of Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Committee for Determination of Tax Violations and Disputes
First Department for Determination of Income Tax Violations and Disputes inDammam

Decision No. VD-2022-216
Case No. V-65965-2021

Key words:
Value Added Tax – Refunding VAT Payment – Real Estate Supply – Failure to Issue a Tax Invoice

Abstract

Taxpayer requests annulling ZATCA decision and the refund of VAT payment amounting to SAR 42,500 for supplying a property to ZATCA at a value of SAR 500,000, as per the attached Title Deed No. (…) dated (...) corresponding to (...). to be sold to the client / citizen (…) through real estate financing. Since the principal rule in bearing the burden of VAT, as an indirect tax on received goods and services, shall be the responsibility of the client or buyer (recipient of goods and services), except in specific cases explicitly exempted under Article (30) of the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC). Having taken cognizance of facts of the Case, it turns out that Taxpayer is not entitled to levy VAT, as Taxpayer is registered for VAT under No. (…) on ../.. /... with an effective date of ../.. /..., which was not in effect at the time of transfer. Furthermore, Taxpayer did not provide evidence on issuing a tax invoice at the time of sale. Therefore, the Department ruled to dismiss the Taxpayer's case.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article 2 of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Article (14) of the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Decision No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD
- Paragraph (2) of Article (26) and Article (30) of Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.

Facts:

Facts of the case are summarized that ....., holder of National ID number (.....), in his capacity as attorney under POA No. (...), on behalf of Plaintiff (...), holder of National ID No. (...), submitted a statement of claim against (...), C.R. No. (...), requesting to oblige Defendant to refund VAT payment amounting to SAR 42,500 resulting from the supply of a property valued at SAR 500,000. The property in question is residential land plot No. (...) from Bank No. (...) from Plan No. (...), with a rate of (...), located in Al-Shulah, Dammam.
Defendant responded by an answer stating the following: Plaintiff did not provide the Company with any registration certificate or tax invoice and had signed a written acknowledgment. The procedure was carried out in accordance with the circular issued regarding the state's coverage of VAT on the first home. In addition, Plaintiff was registered later and made the payment to ZATCA

on 11/11/2019 AD, while Plaintiff sold the property to the Company on 10/11/2019 AD. End of Answer.
On Sunday, 06/02/2022 AD, the session was held in accordance with remote litigation procedures. Having called the parties to the Case, the Department found that (...), holder of National ID No. (...), appeared in his capacity as Plaintiff's attorney under POA No. (...). On the other hand, neither Defendant nor its representative appeared. Having asked Plaintiff's attorney about the claim, he gave an answer that does not differ from such statements included in the statement of claim submitted to the General Secretariat of Tax Committees and insisted thereon. Since the Case is ripe for adjudication and after the conclusion of the present party's participation. Therefore, the Department decided that parties to the Case should temporarily leave the room for deliberation and adjudication.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.
In Form: Since Plaintiff filed the Case moving for obliging Defendant to refund VAT amounting to SAR 42,500 in accordance with the Law of Value Added Tax and its Implementing Regulations. Since this dispute is a tax dispute, it falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form.
On Merits: Having taken cognizance of Case documents and answers of both parties after being granted sufficient time to present their arguments, the Department found the dispute between Plaintiff and Defendant involves Plaintiff's claim against Defendant to pay VAT amounting to SAR 42,500 for supplying a property to Defendant valued at SAR 500,000 on 13/03/1441 AH corresponding to 10/11/2020 AD. In addition, Paragraph (2) of Article (26) of the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) stipulates that: "The value of a Supply shall be the value of Consideration less the Tax and includes the value of the non-cash portion of the Consideration determined according to the fair market value". In addition, Article (2) of the Law of Value Added Tax stipulates: "Tax shall be imposed on the import and supply of goods and services in accordance with the provisions stipulated in the Agreement, the Law, and the Regulations". Moreover, Article (14) of the Implementing Regulations of the Law of Value Added Tax stipulates: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom".
Having taken cognizance of the entire Case file and the arguments presented, Plaintiff's claim against Defendant involves the payment of VAT in the amount of SAR 42,500 for supplying a property to Defendant at a value of SAR 500,000, as per the attached Title Deed No. (...) dated (...) corresponding to (...). to be sold to the client / citizen (…) through real estate financing. Having taken cognizance of Defendant's answer, since the principal rule in bearing the burden of VAT, as an indirect tax on received goods and services, shall be the responsibility of the client or buyer (recipient of goods and services), except in specific cases explicitly exempted under Article (30) of the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC).

Having taken cognizance of facts of the Case, it turns out that Plaintiff is not entitled to levy VAT, as Plaintiff is registered for VAT under No. (...) dated (...) with an effective date of (…), which was not in effect at the time of property transfer. Furthermore, Plaintiff did not provide evidence of issuing a tax invoice at the time of sale. Therefore, the Department dismisses the Case.
Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department after deliberation unanimously decided to:

Decision:

To dismiss Plaintiff case.
This decision was issued in the presence of both litigants, and Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 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 inDammam

Decision No. VD-2022-404
Case No. V-52736-2021

Key words:
Value Added Tax – Late VAT Registration Fine – Canceling Fine

Abstract

Taxpayer requests annulling ZATCA decision regarding the fine for late filing of tax return for Q1 of 2021 and requests its cancellation. The Department found that the return was filed on the first working day following the end of the official holiday. Accordingly, the Department does not find that Taxpayer committed a violation warranting a fine. Therefore, the Department accepts Taxpayer's claim and cancels the fine in question.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- The Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Resolution No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD
- Common VAT Agreement of GCC states of November 2016

Facts:

The facts of this Case are summarized that (...) holder of National ID No. (...), the owner of (...), C.R. No. (...), submitted a statement of claim objecting to Defendant's decision regarding the fine for late filing of tax return for Q1 of 2021 and requests the cancellation of fine.
Having presented the statement of claims to the Defendant, it responded as follows: First: In from: Article (41) of the Law of Civil Procedure 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". As such, the lawsuit does not meet the statutory requirements. Second: On Merits: Paragraph (1) of Article (62) of the Implementing Regulations of the Law of Value Added Tax stipulates "The Tax Return of a Taxable Person must be filed by the Taxable Person or a person authorized to act on his behalf for each Tax Period with the Authority no later than the last day in the month following the end of the Tax Period to which the Tax Return relates ..". In addition, Paragraph (3) of Article (42) of the Law of Value Added Tax stipulates "Any person who fails to submit a tax return within the period specified by the Regulations shall be subject to a fine not less than 5% and not more than 25% of the amount of tax that he should have declared". Since the deadline for Plaintiff to file tax return for the relevant tax period was 30/04/2021 AD, and Plaintiff failed to file the return within the statutory period, ZATCA insists on the validity of its decision of imposing fine. Defendant's representative

concluded his memorandum by requesting the Department to dismiss the Case in form. End of Answer.
On Wednesday, 16/02/2022 AD, the session was held in accordance with remote litigation procedures. Since both parties desired to proceed with Case consideration with the appearance of Plaintiff (...) holder National ID number (...), attended the session in his own behalf as Plaintiff, and Mr....., holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated (.....) issued by Vice Governor for Legal Affairs. Having asked Plaintiff about his case, Plaintiff answered as stated in the statement of claim submitted to the General Secretariat of Zakat, Tax and Customs Committees and insisted thereon. Having asked Defendant's representative about his answer, he maintained his answers contained in his reply. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Therefore, the Department decided that parties to the Case should temporarily leave the virtual room for deliberation and adjudication.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.
In Form: Plaintiff filed the Case moving for annulling Defendant's decision regarding the fine for late filing of tax return tax period related to Q1 of 2021 in accordance with the Law of Value Added Tax and its Implementing Regulations. Since this dispute is a tax dispute, it falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form.
On Merits: Having taken cognizance of Case documents and answers of both parties after being granted sufficient time to present their arguments, the Department found that the tax return was filed on the first working day after the end of holiday. Therefore, the Department does not consider Plaintiff to have committed a violation warranting a fine, necessitating cancellation of fine in question and treating it as if it never existed. As such, and in accordance with the Common VAT Agreement, Law of Value Added Tax and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department unanimously decided:

Decision:

Accept the Case filed by Plaintiff and cancel the fine in question.
This decision was issued in the presence of both litigants, and Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under 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. VD-2022-591
Case No. V-57573-2021

Key words:
Value Added Tax – fine for Failure to Collect VAT – Delay in Issuing the fine Decision

Abstract

The Taxpayer requests the cancellation of ZATCA's decision to impose a fine for failure to collect Value Added Tax, Decision No. (...) dated ../../..., in the amount of SAR 10,000, and seeks the annulment of ZATCA's decision. It is evident that the dispute arises from the Taxpayer's request for ZATCA to revoke the field inspection fine. Upon reviewing the date of the violation, it was found to have occurred on July 27, 2018, whereas the fine decision was not issued until approximately two years later. Given the significant time gap between the date of the violation and the issuance of the fine, the primary objective of imposing a fine, immediately notifying the offender of their violation or negligence, was not fulfilled. The delayed imposition of the fine deviates from its intended purpose and deprives the Taxpayer of the opportunity to present evidence in a timely manner. Conclusion: Acceptance of the Taxpayer's claim and annulment of ZATCA's decision.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- The Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 H.
- the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Resolution No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD
- Common VAT Agreement of GCC states of November 2016

Facts:

The facts of this case revolve around (...), holder of National ID No. (...), as the owner of (...) Establishment, registered under Commercial Registration No. (...), who filed a case objecting to the decision of the Zakat, Tax, and Customs Authority regarding the imposition of a fine for failure to collect Value Added Tax (VAT). The contested decision, No. (...), dated ../../..., imposed a fine of SAR 10,000, and the plaintiff seeks its annulment.

Having presented the statement of claims to the Defendant, it responded as follows: "On July 27, 2018, ZATCA's representatives visited the plaintiff's premises to verify compliance with VAT regulations. Upon inspection, it was found that the plaintiff had violated Paragraph (1) of Article (25) of the Common VAT Agreement for the Gulf Cooperation Council (GCC) States. After confirming the plaintiff's violation of the VAT Law, ZATCA imposed a fine of SAR 10,000, in accordance with Paragraph (3) of Article (45) of the VAT Law. Based on the above, ZATCA

requests that the case be dismissed and that its decision be upheld. Furthermore, ZATCA reserves the right to submit additional responses and clarifications before the closure of the hearing."
On Tuesday, March 15, 2022, a remote hearing was held in accordance with virtual litigation procedures. The defendant attended, while the plaintiff did not appear, despite being duly notified of the session's date and method of conduction. The defendant's representative, (...), holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated (.....) issued by the Deputy Governor for Legal Affairs.
Upon being confronted with this matter, the defendant's representative requested that the case proceed and a decision be issued. After reviewing the case and the documents submitted, and since the case was found to be ripe for adjudication and having terminated the participation of the attendees for deliberation pursuant to the law and its implementing regulations, the Department decided to close the pleadings and deliberations Decision.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.
In Form: Since the plaintiff aims, through this case, to request the annulment of the defendant's decision imposing a fine for failure to collect Value Added Tax (VAT), and given that this dispute falls under tax-related disputes, it is within the jurisdiction of the Tax Violations and Disputes Settlement Committee, in accordance with Royal Order No. (26040), dated 21/04/1441H. Additionally, the case was filed by a party with legal standing and within the legally prescribed timeframe, which necessitates its formal acceptance by the Department.
On Merits: Upon examining the case documents and the responses of both parties, it is evident that the dispute arises from the plaintiff's request to cancel the field inspection fine. Reviewing the date of the violation, it was found to have been recorded on July 27, 2018, while the fine decision was not issued until approximately two years later. The significant delay between the date of the violation and the issuance of the fine suggests either a lack of conviction by ZATCA in imposing the fine at the time or a failure on its part to issue it promptly. The primary purpose of imposing a fine is to immediately notify the violator of their infraction or negligence. If this purpose is not fulfilled, imposing the fine after such a long delay represents a deviation from the intended objective of administrative fines. Furthermore, this delay deprives the Taxpayer of the opportunity to present their evidence in a timely manner. As a result, ZATCA's decision does not merit endorsement, necessitating a ruling in favor of accepting the case and annulling the contested decision along with all its consequences. Based on the foregoing and in accordance with the Common Agreement for VAT, the VAT Law and its Implementing Regulations, and the Rules Governing the Work of the Tax Violations and Disputes Committees, the Department, after deliberation, unanimously decided as follows:

Decision:

To accept the Plaintiff case and cancel the Defendant's decision subject of the case.
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 which may be extended for an additional period as the Department deems appropriate. 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. VD-2022-595
Case No. V-69279-2021

Key words:
Value Added Tax – fine for Late VAT Registration – Mandatory Registration Threshold – Discretionary Authority – Decision Annulment

Abstract

The Taxpayer requests the cancellation of ZATCA's decision imposing a fine for late VAT registration in the amount of SAR 10,000. Upon review, the Department found that ZATCA imposed a late registration fine of SAR 10,000 on the Taxpayer. However, it is undisputed that the Taxpayer voluntarily initiated the registration process. ZATCA's claim of a delay in registration is merely an allegation that it failed to substantiate, despite having had the opportunity to do so. The contested decision was based on assumption rather than conclusive evidence, as it was not supported by the necessary documentation to validate its correctness. Conclusion: Acceptance of the Taxpayer's claim and annulment of ZATCA decision.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- The Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Resolution No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD
- Common VAT Agreement of GCC states of November 2016

Facts:

The facts of this case revolve around (...), holder of National ID No. (...), as the owner of (...) Establishment, registered under Commercial Registration No. (...), who filed a case objecting to the decision of the Zakat, Tax, and Customs Authority regarding the imposition of a fine for late VAT registration in the amount of SAR 10,000. The plaintiff requests the annulment of the defendant's decision.

Having presented the statement of claims to the Defendant, it responded as follows: "1/ Paragraph (1) of Article (50) of the Common VAT Agreement of the States of the Gulf Cooperation Council states that "The Mandatory Registration Threshold shall be SAR 375,000" 2. In accordance with the principle of discretionary authority granted to the administrative body, which allows it to determine the approach for making decisions regarding the legal status of taxpayers, ZATCA has adopted, through its regulations, a principle of voluntary compliance for all processes, including registration, filing returns, correcting errors, and notifying ZATCA of any changes, etc. However, ZATCA retains discretionary powers to review taxpayers' status when necessary and to conduct audits and verifications of any submitted request to ensure its accuracy and validity. Accordingly,

ZATCA allowed taxable persons to complete registration voluntarily, giving them the option to submit supporting documents or rely on a declaration confirming the accuracy of the provided information. Consequently, the Taxpayer voluntarily registered and selected the supply threshold applicable to their business, and the fine was issued based on the Taxpayer's own provided inputs. fines are imposed solely on this basis. 3/ All legal requirements were published well in advance of implementation, and various awareness measures were undertaken through electronic channels. Additionally, a Common call center was made available to all taxpayers to ensure proper compliance with the VAT law and its regulations. 4. Based on the above, a late registration fine was imposed pursuant to Article (41) of the VAT Law, which states, "Any Person who has not applied for registration within the period specified in the Regulations shall be fined ten thousand (10,000) SAR". Requests: Based on the above, ZATCA requests the Honorable Committee to dismiss the case for the reasons stated above and to confirm ZATCA's decision. ZATCA also reserves the right to provide further responses and clarifications before pleadings closure. ".

On Monday, March 14, 2022, the hearing was held in accordance with remote litigation procedures. The defendant attended, while the plaintiff did not appear, despite being duly notified of the session's date and method of conduction. The defendant's representative, (...), holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated (.....) dated ....., issued by Deputy Governor for Legal Affairs. Given the Plaintiff's absence, the Defendant requested to proceed with the case and issue a decision. After reviewing the case and the documents submitted, and since the case was found to be ripe for adjudication and having terminated the participation of the attendees for deliberation pursuant to the law and its implementing regulations, the Department decided to close the pleadings and deliberations Decision.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the Plaintiff instituted his Case moving to cancel the Defendant's decision to impose a late registration fine for ZAT, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Tax Violations and Disputes Committee pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form.

On Merits: Upon reviewing the case documents and the responses of both parties, after granting them sufficient time to present their arguments and submit any supporting evidence, the Department found that the defendant imposed a late VAT registration fine of SAR 10,000 on the plaintiff. Upon further examination of the case records and responses, it became evident that the plaintiff had initiated the registration process voluntarily. However, the defendant's claim that the plaintiff had registered late remains a mere allegation, which the defendant failed to substantiate, despite having had the opportunity to do so. The regulations grant the defendant sufficient means and authority to establish the occurrence of a violation if it existed. However, the defendant did not provide the Department with any supporting evidence demonstrating that the plaintiff exceeded the legally prescribed registration period. Specifically, the defendant failed to establish a definitive date by which the plaintiff was required to register. Given this lack of conclusive evidence, the Department does not find sufficient grounds to support the fine's validity. Consequently, it concludes that the contested decision was based purely on assumption, without

the necessary supporting documents to prove its legitimacy. The contested decision must be annulled, and accordingly, the Department rules in favor of canceling the imposed fine.
Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department after deliberation unanimously decided to:

Decision:

To accept the Plaintiff case and cancel the Defendant's decision subject of the case.
This decision was issued in the presence of both parties, in accordance with the provisions of Article (56) of the Law of Civil Procedure. The Department set a period of thirty days for obtaining a copy of the decision, with the possibility of extending the deadline for an additional thirty days at its discretion. The decision is considered final and enforceable pursuant to 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:
Value Added Tax (VAT) - Field inspection fine - Fine for collecting tax on behalf of another Taxpayer - Violation of simplified invoice requirements

Abstract

The Taxpayer requests the cancellation of ZATCA's decision imposing a tax collection fine in the name of another Taxpayer, amounting to (10,000) SAR, and seeks the annulment of ZATCA's decision. It appears that the dispute lies in the Taxpayer's request for ZATCA to cancel the field inspection fine. Upon reviewing the field inspection report dated (...), the Department found that the Taxpayer had collected tax under the name of another Taxpayer, thereby failing to comply with the requirements of the tax invoice. The violation description states: "Tax is being collected in the name of another Taxpayer, which constitutes a violation of Article (53/8/b) of the Implementing Regulations of the Value Added Tax Law." Furthermore, the Taxpayer did not provide any acceptable justification for the delay in making the necessary corrections. Therefore, the Department ruled to dismiss the Taxpayer's case.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Article (8/53/b) of the Implementing Regulations of the Value Added Tax Law, issued pursuant to the decision of the Board of Directors of the General Authority of Zakat and Tax (formerly) No. (3839), dated 14 Dhul-Hijjah 1438 AH, corresponding to November 14, 2016.
- Common VAT Agreement of GCC states of November 2016

Facts:

The facts of this case are summarized as follows: (...) with National ID number (...), in his capacity as the owner of the establishment (...) with Commercial Registration number (...), submitted a case memorandum objecting to the decision of the defendant, the Zakat, Tax and Customs Authority, regarding the imposition of a fine for collecting tax on behalf of another taxpayer, in the amount of 10,000 SAR. He requests cancellation of the defendant's decision. Having presented the statement of claims to the Defendant, it responded as follows: "On 11/04/2021, ZATCA's representatives visited the Plaintiff's premises to verify the application of the tax provisions. After inspection, it was found that the Plaintiff had violated the simplified invoice requirements stipulated in Article (53.8(b)) of the Implementing Regulations of Value Added Tax Law. After due verification, ZATCA imposed a fine on the Plaintiff in the amount of SAR 10,000, based on the provisions of Article (45.3) of the Value Added Tax Law. Based on the foregoing, ZATCA requests a ruling to dismiss the case and uphold ZATCA's decision in question. ZATCA also reserves the right to provide further responses and clarifications before the closing of the

pleadings." On Monday, March 14, 2022, the hearing was held in accordance with remote litigation procedures. The defendant attended, while the plaintiff did not appear, despite being duly notified of the session's date and method of conduction. The defendant's representative, (...), holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated (.....) dated ....., issued by Deputy Governor for Legal Affairs. Given the Plaintiff's absence, the Defendant requested to proceed with the case and issue a decision. After reviewing the case and the documents submitted, and since the case was found to be ripe for adjudication and having terminated the participation of the attendees for deliberation pursuant to the law and its implementing regulations, the Department decided to close the pleadings and deliberations Decision.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the plaintiff seeks, through this case, to request the cancellation of the defendant's decision regarding the imposition of a tax collection fine under the name of another Taxpayer, and given that this dispute falls under tax-related matters, it is classified as a dispute within the jurisdiction of the Committee for the Resolution of 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 standing and within the prescribed statutory period, the Department finds that the case is formally admissible.

On Merits: Upon reviewing the case documents and the responses of both parties, it is evident that the dispute revolves around the plaintiff's request for the defendant to cancel the field inspection fine. From the field inspection report dated (...), it was found that the plaintiff collected tax under the name of another Taxpayer, thereby failing to comply with the requirements of the tax invoice. The description of the violation states: "Tax is being collected under the name of another Taxpayer." In its response memorandum, the defendant attached an invoice for (...) store No. (...) Dated (...) It is evident from the invoice that the tax identification number listed on it, (...), does not belong to the plaintiff, whose tax identification number is (...). This constitutes a violation of Article (53/8/b) of the Implementing Regulations of the Value Added Tax Law. Since the plaintiff did not provide any acceptable justification for the delay in making the necessary corrections, the Department deems the defendant's actions to be valid and in accordance with the law.

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

Decision:

To dismiss Plaintiff case.

This decision was issued in the presence of both litigants, and Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules 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 Dammam

Decision No. VD-2022-962
Case No. V-67051-2021

Key words:
Value Added Tax (VAT) - Field inspection fine -Fine for collecting tax on behalf of another Taxpayer - Violation of simplified invoice requirements

Abstract

The Taxpayer requests the cancellation of ZATCA's decision regarding the imposition of a tax collection fine under the name of another Taxpayer, decision No. (...) dated ../../...., amounting to (10,000) SAR. The plaintiff seeks the annulment of ZATCA's decision, as the dispute lies in the plaintiff's request for the defendant to cancel the field inspection fine. Upon reviewing the field inspection report dated (...) and signed by the Taxpayer's representative (...), the Department found that the plaintiff had collected tax under the name of another Taxpayer. As a result, the Taxpayer failed to comply with the requirements of the tax invoice, which clearly indicates that tax was collected under another Taxpayer's name. This constitutes a violation of Article (53/8/b) of the Implementing Regulations of the Value Added Tax Law. Furthermore, the plaintiff's argument that they lack the necessary experience and knowledge of such procedures is not a valid defense in this case. It does not absolve the plaintiff of their negligence and failure to comply with tax regulations. Therefore, the Department ruled to dismiss the Taxpayer's case.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Article (8/53/b) of the Implementing Regulations of the Value Added Tax Law, issued pursuant to the decision of the Board of Directors of the General Authority of Zakat and Tax (formerly) No. (3839), dated 14 Dhul-Hijjah 1438 AH, corresponding to November 14, 2016.
- Common VAT Agreement of GCC states of November 2016

Facts:

The facts of this case are summarized as follows: (...) , holding National ID No. (...), in his capacity as the owner of (...) with Commercial Registration No. (...), filed a case objecting to the decision of the defendant, the Zakat, Tax, and Customs Authority, regarding the imposition of a tax collection fine under the name of another Taxpayer, Decision No. (...) dated (...), amounting to (10,000) SAR. The plaintiff requests the annulment of the defendant's decision.
Having presented the statement of claims to the Defendant, it responded as follows: "On 03/05/2021, ZATCA's representatives visited the Plaintiff's premises to verify the application of the tax provisions. After inspection, it was found that the Plaintiff had violated the simplified invoice requirements stipulated in Article (53.8(b)) of the Implementing Regulations of Value Added Tax Law. After due verification, ZATCA imposed a fine on the Plaintiff in the amount of SAR 10,000, based on the provisions of Article (45.3) of the Value Added Tax Law. Based on the

foregoing, ZATCA requests a ruling to dismiss the case and uphold ZATCA's decision in question. ZATCA also reserves the right to provide further responses and clarifications before the closing of the pleadings."

On Sunday, 20/03/2022 AD, , a session was held in accordance with the Remote Litigation Procedures. The Plaintiff failed to appear despite being duly notified of the timing and format of session, while for the Defendant appeared Mr..... holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated (.....) dated ....., issued by Deputy Governor for Legal Affairs. Given the Plaintiff's absence, the Defendant requested to proceed with the case and issue a decision. After reviewing the case and the documents submitted, and since the case was found to be ripe for adjudication and having terminated the participation of the attendees for deliberation pursuant to the law and its implementing regulations, the Department decided to close the pleadings and deliberations Decision.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the plaintiff seeks, through this case, to request the cancellation of the defendant's decision regarding the imposition of a tax collection fine under the name of another Taxpayer, and given that this dispute falls under tax-related matters, it is classified as a dispute within the jurisdiction of the Committee for the Resolution of 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 standing and within the prescribed statutory period, the Department finds that the case is formally admissible.

On Merits: Upon reviewing the case documents and the responses of both parties, the Department finds that the dispute revolves around the plaintiff's request for the defendant to cancel the field inspection fine. From the field inspection report dated (...) and signed by the Taxpayer's representative (...), it was established that the plaintiff collected tax under the name of another Taxpayer, thereby failing to comply with the requirements of the tax invoice. The defendant attached, in its response memorandum, Invoice No. (...) dated (...), which clearly shows that tax was collected under another Taxpayer's name. This constitutes a violation of Article (53/8/b) of the Implementing Regulations of the Value Added Tax Law. Furthermore, the plaintiff's argument that they lack the necessary experience and knowledge regarding these procedures is not a valid defense in this case and does not absolve them of negligence and failure to comply with the regulations. Since it has been established that the plaintiff collected tax under another Taxpayer's name in the issued invoice, the Department finds the defendant's action of imposing the fine to be legally valid.

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

Decision:

To dismiss Plaintiff case.

This decision was issued in the presence of both litigants, and Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems

appropriate. Any litigant may appeal the decision within 30 days from the day following specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules 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 Dammam

Decision No. VD-2022-989
Case No. V-73050-2021

Key words:
Value Added Tax – Late Registration fine – Mandatory Registration Threshold – Invalidity of fine Imposition

Abstract

The Taxpayer requests the cancellation of ZATCA's decision regarding the imposition of a late registration fine for Value Added Tax (VAT), amounting to (10,000) SAR, and seeks the annulment of ZATCA's decision. The dispute lies in the Taxpayer's request for ZATCA to cancel the late VAT registration fine, as ZATCA registered the Taxpayer based on the claim that they had exceeded the mandatory registration threshold. According to Paragraph (1) of Article (6) of the Implementing Regulations, ZATCA failed to provide the data on which it relied for registering the Taxpayer and imposing the fine. As a result, the Taxpayer's claim is accepted, and ZATCA's decision is annulled.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Paragraph (1), Article (6) of the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Resolution No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD
- Common VAT Agreement of GCC states of November 2016

Facts:

The facts of this case are summarized as follows: (...) , holding National ID No. (...), in his capacity as the owner of (...), with Commercial Registration No. (...), filed a case objecting to the decision of the defendant, the Zakat, Tax, and Customs Authority, regarding the imposition of a late registration fine for Value Added Tax (VAT), amounting to (10,000) SAR. The plaintiff requests the annulment of the defendant's decision.

Having presented the statement of claims to the Defendant, it responded as follows: Article 3 of the Implementing Regulations of the Value Added Tax Law stipulates that "For registration purposes, every Resident Person in the Kingdom who is not registered by the Authority must at the end of each month calculate the value of his Supplies made in the Kingdom within the twelve months then ended, in accordance with the requirements set out in the Agreement. In cases where this value exceeds the Mandatory Registration Threshold detailed in the Agreement, the Person must apply to the Authority to register within thirty (30) days of the end of that month pursuant to Article eight of these Regulations". Moreover, Article 6 of the Implementing Regulations of the Value Added Tax Law provides that "Where the Person has failed to make an application to the Authority as prescribed in these Regulations, the Authority may register such Person without

submitting any application and such registration shall take effect from the relevant date prescribed under Articles three and four of these Regulations". Article 56 of the Implementing Regulations of the Value Added Tax Law also authorized ZATCA to have access directly and on an ongoing basis to the information related to the tax that is kept by a third party. Having referred to the Plaintiff's information with the Saudi Central Bank, 3- Based on the foregoing, the imposition of the late registration fine is legally valid, in accordance with Article (41) of the Value Added Tax Law, which states: "Any Person who has not applied for registration within the period specified in the Regulations shall be fined ten thousand (10,000) SAR." Accordingly, ZATCA requests a ruling to dismiss the case and uphold ZATCA's action subject to this case. Furthermore, ZATCA reserves the right to submit additional responses and clarifications until the closure of the pleadings phase."

On Monday, 04/04/2022, the hearing was held in accordance with remote litigation procedures. The defendant attended, while the plaintiff did not appear, despite being duly notified of the session's date and method of conduction. The defendant's representative, (...), holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated (.....) dated ....., issued by Deputy Governor for Legal Affairs. Given the Plaintiff's absence, the Defendant requested to proceed with the case and issue a decision. After reviewing the case and the documents submitted, and since the case was found to be ripe for adjudication and having terminated the participation of the attendees for deliberation pursuant to the law and its implementing regulations, the Department decided to close the pleadings and deliberations.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the Plaintiff instituted his Case moving to cancel the Defendant's decision to impose a late registration fine for ZAT, and given that this dispute is a tax dispute, it is considered a dispute falling within the jurisdiction of the Tax Violations and Disputes Committee pursuant to Royal Order No. (26040) dated 21/04/1441 AH, and considering that the case was filed by a person with capacity, and within the period prescribed by law, it is then accepted in form.

Upon reviewing the case documents and the responses of both parties, the Department finds that the dispute revolves around the plaintiff's request for the defendant to cancel the late registration fine for Value Added Tax (VAT). The defendant registered the plaintiff on the grounds that they had exceeded the mandatory registration threshold, in accordance with Paragraph (1) of Article (6) of the Implementing Regulations. However, the defendant failed to provide the data on which it based the plaintiff's registration and the imposition of the fine, while the plaintiff persistently denied reaching the mandatory registration threshold. As a result, the Department concludes that the defendant's decision to impose the fine does not comply with the law and, therefore, determines that the imposition of the fine on the plaintiff is invalid. Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department after deliberation unanimously decided to:

Decision:

To accept the Plaintiff case and cancel the Defendant's decision subject of the case.

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 which may be extended for an additional period as the Department deems appropriate. 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. VD-2022-991
Case No. V-73333-2021

Key words:
Value Added Tax – fine for Absence of Business Address – Simplified Invoice Requirements – Field Inspection fine – Gradual fine Escalation for Violations Related to Field Visits

Abstract

The Taxpayer requests the cancellation of ZATCA's decision regarding the imposition of a fine for the absence of a business address, Decision No. (...) dated ../../...., amounting to (10,000) SAR, and seeks the annulment of ZATCA's decision. The dispute revolves around the Taxpayer's request for ZATCA to cancel the field inspection fine. It is established that the decision of the Board of Directors of the Zakat, Tax, and Customs Authority, which came into effect on January 30, 2022, introduced a reclassification of violations and their corresponding fines. As a result, the Department concludes that the Taxpayer benefits from this decision, considering the fine as a commitment warning rather than an immediate fine. However, should the Taxpayer repeat the same violation within the prescribed regulatory period, they would be subject to a more severe fine in accordance with the escalation framework. Therefore, the Department dismisses Plaintiff's claim on merits regarding field seizure fine in the amount of SAR 10 000.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article (48) of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- The Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Resolution No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD
- Common VAT Agreement of GCC states of November 2016

Facts:

The facts of this case are summarized as follows: (...) , holding National ID No. (...), in his capacity as the owner of (...), with Commercial Registration No. (...), filed a case objecting to the decision of the defendant, the Zakat, Tax, and Customs Authority, regarding the imposition of a fine for the absence of a business address, Decision No. (...) dated ../../...., amounting to (10,000) SAR. The plaintiff requests the annulment of the defendant's decision.

Having presented the statement of claims to the Defendant, it responded as follows: "On 28/06/2021, representatives of ZATCA conducted an on-site inspection of the plaintiff's location to verify compliance with tax regulations. Following the inspection, it was found that the plaintiff had violated the requirements of the simplified invoice as stipulated in Paragraph (b) of Clause (8) of Article (53) of the Implementing Regulations of the Value Added Tax Law. After confirming the plaintiff's violation of VAT regulations, ZATCA imposed a fine of (10,000) SAR, in accordance

with Paragraph (3) of Article (45) of the Value Added Tax Law. Based on the foregoing, ZATCA requests a ruling to dismiss the case and uphold ZATCA's action subject to this case. Furthermore, ZATCA reserves the right to submit additional responses and clarifications until the closure of the pleadings phase."*

On Monday, 04/04/2022, the hearing was held in accordance with remote litigation procedures. The defendant attended, while the plaintiff did not appear, despite being duly notified of the session's date and method of conduction. The defendant's representative, (...), holder of National ID No. (...), appeared in his capacity as ZATCA's Representative by Authorization Letter No. (.....), dated ../../...., issued by the Deputy Governor for Legal Affairs. When confronted with this, the request was made to proceed with the case and issue a decision. After reviewing the case and the documents submitted, and since the case was found to be ripe for adjudication and having terminated the participation of the attendees for deliberation pursuant to the law and its implementing regulations, the Department decided to close the pleadings and deliberations.

Grounds

After reviewing case documents and conducting due examination, and based on the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH and its amendments, as well as the Implementing Regulations of the Law issued by the Board of Directors of the General Authority of Zakat and Tax, Decision No. (3839) dated 14/12/1438 AH, and its amendments, and in accordance with Tax Dispute and Violation Committee Procedures, issued by Royal Order No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form: Since the plaintiff seeks, through this case, to challenge the defendant's decision regarding the imposition of a fine for the absence of a business address, and given that this dispute falls under tax-related matters, it is classified as a dispute within the jurisdiction of the Committee for the Resolution of Tax Violations and Disputes, in accordance with Royal Order No. (26040) dated 21/04/1441 AH. Since the case was filed by a party with legal standing and within the prescribed statutory period, the Department finds that the case is formally admissible.

On Merits: Upon reviewing the case documents and the responses of both parties, it is evident that the dispute revolves around the plaintiff's request for the defendant to cancel the field inspection fine. It is established that the Board of Directors of the Zakat, Tax, and Customs Authority issued a decision, which came into effect on 30/01/2022, introducing a reclassification of violations and their corresponding fines. Under this decision, a gradual approach to fines was implemented for violations related to field visits and e-invoicing, where a first-time violation results only in a warning, with escalating fines in case of recurrence. As the Board is legally authorized to issue such amendments, and since the new regulation is considered more favorable to the violator, it aligns with the purpose of the Law, particularly Article 48, which emphasizes proportionality between violations and fines, and the necessity of gradual fines, including issuing a warning before imposing any fine. Although the general rule is that new laws do not apply retroactively, an exception exists when a new law is more favorable to the accused, as is the case here, where no final enforceable judgment has been issued. Additionally, since the case file does not contain any record of a prior fine against the plaintiff or any prior commitment signed by them, the Department concludes that the plaintiff benefits from this decision. Therefore, the fine shall be considered as a formal warning, meaning that if the plaintiff commits the same violation within the legally prescribed period, they will be subject to a more severe fine under the gradual escalation framework. Based on the foregoing, and in accordance with the Common Agreement, the Value Added Tax Law, its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department, after deliberation and by unanimous decision, rules as follows:

Decision:

Acceptance of plaintiff's case and cancellation of the fine in question based on the reasons provided.

This decision was issued in the presence of both litigants, and Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules 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. VR-2022-169
Case No. V-63797-2021

Key words:
Value Added Tax – Field Inspection fine – Failure to Account for VAT – Violation of Simplified Invoice Requirements

Abstract

The Taxpayer requests the cancellation of ZATCA's decision regarding the imposition of a field inspection fine, amounting to (10,000) SAR, and seeks the annulment of the imposed fine. The dispute arises from ZATCA's imposition of a fine on the Taxpayer for violating the provisions of the VAT law or its regulations, amounting to (10,000) SAR. The Department has established that the plaintiff violated the fundamental principles of tax calculation in accordance with Paragraph (1) of Article (25) of the Common Agreement for VAT of the Gulf Cooperation Council (GCC) States, by failing to collect Value Added Tax (VAT). Additionally, Paragraph (3) of Article (45) of the VAT Law states: "A fine not exceeding (50,000) fifty thousand SAR shall be imposed on any person who: 3. violates any other provision of the Law or the Regulations". As such, the Department dismisses Taxpayer's claim.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Paragraph (3), Article (45) of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH
- the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Resolution No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD
- Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. (1535) of 11/06/1425 AH
- Common VAT Agreement of GCC states of November 2016

Facts:

The facts of this case are summarized as follows: (...) , holding National ID No. (...), in its capacity as the owner of (...) Center, with Commercial Registration No. (...), filed a case objecting to the decision regarding the imposition of a field inspection fine, amounting to (10,000) SAR, and seeks the annulment of the imposed fine. Having presented the statement of claims to the Defendant, it responded as follows: "We inform you that representatives of ZATCA conducted an on-site inspection of the plaintiff's location and examined the simplified invoices issued to verify compliance with the provisions of the Value Added Tax (VAT) Law and its Implementing Regulations. Following the inspection, it was found that the plaintiff had violated the provisions of Paragraph (1) of Article (25) of the Common VAT Agreement for the Gulf Cooperation

Council (GCC) States, which states: 'VAT shall be applied at a standard rate of 5% on the value of the supply or import unless an exemption or a zero-rate application is explicitly provided for in this Agreement.' Additionally, Article (2) of the VAT Law stipulates that: "Tax shall be imposed on the import and supply of Goods and Services in accordance with the provisions stipulated in the Agreement, the Law and the Regulations". Furthermore, the simplified invoice requirements outlined in Paragraph (8) of Article (53) of the Implementing Regulations of the VAT Law state that: "A simplified Tax Invoice must include the following details: e. The VAT payable or a statement indicating that the price includes VAT in relation to the supply of goods or services." Since the invoices did not include the VAT payable at the legally prescribed rate, ZATCA requests that the committee dismiss the case.

On Wednesday, 02/02/2022, the Department convened its first hearing to review the case filed by (...), holding National ID No. (...), against the Zakat, Tax, and Customs Authority. Upon calling the parties to the case, the plaintiff or their representative did not appear, despite having been duly notified of the hearing date via the email address registered in the case file. However, (...), holding National ID No. (...), attended as a representative of the Zakat, Tax, and Customs Authority, based on an official authorization issued by ZATCA under No. (...). After verifying the identity of ZATCA's representative by displaying their national ID through a magnified window and confirming their legal standing, the Department decided to proceed with the case. In its statement of claims, the Plaintiff moved to cancel of ZATCA decision regarding imposition of Field Detection Fine in the amount of (SAR 10,000) as detailed in statement of claims. When asked about his response to the plaintiff's case, ZATCA's representative of adhered to the validity of its decision, based on the details provided in the reply memorandum submitted in response to the plaintiff's lawsuit, along with the attached inspection report and the invoices subject to the inspection. Based on the foregoing and where neither the Plaintiff nor its representative attended this session, despite being duly notified of its date, and since the case was ready for adjudication, and after due deliberation, the Department decided to close the pleadings and adjourn the session for deliberation and delivery of its decision.

Grounds

After reviewing the Case documents, and upon thorough examination, and in light of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH as amended and its Implementing Regulations issued pursuant to the Minister of Finance's Decision No. (1535) dated 11/06/1425 AH as amended, Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH as amended and the Implementing Regulations issued by the decision of ZATCA's BOD No. (3839) dated 14/12/1438 AH as amended, Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations. In Form: Since the plaintiff seeks, through this case, to challenge the defendant's decision regarding the imposition of a field inspection fine, based on the Value Added Tax (VAT) Law and its Implementing Regulations, and given that this dispute falls under tax-related matters, it is classified as a dispute within the jurisdiction of the Committee for the Resolution of Income Tax Violations and Disputes, in accordance with Royal Order No. (26040) dated 21/04/1441 AH. Since the case was filed by a party with legal standing and within the prescribed statutory period, the Department finds that the case is formally admissible.

On Merits: Upon reviewing the case documents and the responses of both parties, and after granting them sufficient time to present their arguments and evidence, the Department has established that the dispute arises from the defendant's imposition of a fine on the plaintiff for violating the provisions of the VAT Law or its regulations, amounting to (10,000) SAR. The defendant submitted a field inspection report dated (...) documenting the inspection visit, signed by the Taxpayer's representative, which stated that the violation involved "failure to indicate the VAT payable." Additionally, the defendant presented the invoices subject to the inspection,

confirming that the invoices were issued without including the applicable VAT. Accordingly, the Department has determined that the plaintiff violated the fundamental principles of tax calculation, in accordance with Paragraph (1) of Article (25) of the Common VAT Agreement for the Gulf Cooperation Council (GCC) States, by failing to collect VAT. Furthermore, Paragraph (3) of Article (45) of the VAT Law states: "A fine not exceeding (50,000) fifty thousand SAR shall be imposed on any person who: 3. violates any other provision of the Law or the Regulations". Accordingly, the Department concludes that the defendant's imposition of the fine is legally valid.

Decision:

First: Accept Plaintiff's case in form.
Second: On Merits: Plaintiff's case (...) with National ID number (...) to cancel the field inspection fine of 10,000 SAR is rejected.
Third: This decision was issued in absentia with respect to the plaintiff and in person with respect to the defendant. The Department set a thirty-day period for the collection of a copy of the decision, which may be extended for an additional thirty days at the Department's discretion. This decision is final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Committee for Determination of Tax Violations and Disputes
Second Department for Determination of Income Tax Disputes and Violations in Dammam

Decision No. VSR-2022-267
Case No. 52569-2021-V

Key words:
Value Added Tax – Field Inspection fine – No Violation Proven – No Field Visit Conducted – fine Revoked

Abstract

The Taxpayer requests the cancellation of ZATCA's decision regarding the imposition of a field inspection fine for allegedly obstructing or preventing Authority employees from performing their duties. The Taxpayer seeks the annulment of the fine imposed by ZATCA. The Department has determined that the dispute revolves around the imposition of a field inspection fine on the grounds of obstructing or preventing Authority employees from performing their duties. A final assessment for the third quarter of 2020 was conducted, and a fine of (10,000) SAR was imposed for the alleged obstruction of an Authority employee. However, it was established that no violation by the Taxpayer was proven. As a result, the Taxpayer's objection is accepted, and the field inspection fine is revoked.

Instruments:

- 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
- the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. (1535) of 11/06/1425 AH
- the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Resolution No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD
- Common VAT Agreement of GCC states of November 2016

Facts:

Facts of the case are summarized that ....., holder of National ID number (.....), As the authorized representative of the plaintiff, pursuant to Power of Attorney No. (...), he filed a case objecting to ZATCA's decision regarding the imposition of a field inspection fine for allegedly obstructing or preventing Authority employees from performing their duties. The plaintiff requests the annulment of the defendant's decision.

Having presented the statement of claim to Defendant, it answered as follows: "First: Subjective Plea: The plaintiff submitted the VAT return for the third quarter of 2020 on 25/10/2020. Consequently, ZATCA exercised its powers granted under Article (26) of the Value Added Tax Law, which states: "The Authority may conduct a tax assessment for the taxable person regardless of the tax return submitted by them..." Additionally, Paragraph (1) of Article (64) of the

Implementing Regulations of the VAT Law stipulates: "ZATCA may issue an assessment of a taxable person's VAT obligations for one or more tax periods, and must notify the taxable person upon issuance of such an assessment." Accordingly, ZATCA reassessed the tax return for the disputed tax period. ZATCA contacted the plaintiff via phone and email to request the necessary supporting documents verifying the accuracy of the VAT return data, in accordance with its legal right to obtain information substantiating the Taxpayer's obligations, as outlined in Paragraph (1) of Article (56) of the Implementing Regulations, which states: "1- All persons must provide ZATCA with any information requested for the purpose of verifying their tax obligations." An additional information request was sent to the plaintiff on 26/10/2020, but the plaintiff failed to cooperate with ZATCA's representatives. After confirming the plaintiff's violation of the VAT Law and its Implementing Regulations, as detailed above, ZATCA imposed a fine of (10,000) Saudi SAR, based on Paragraph (2) of Article (45) of the VAT Law, which states: "A fine not exceeding (50,000) fifty thousand SAR shall be imposed on any person who: 2- Prevents or obstructs ZATCA's employees or any of its staff from performing their official duties." Second: Requests: ZATCA requests the Honorable Department to dismiss the Plaintiff's case. End of Answer.

On Wednesday, 09/06/1443 AH, corresponding to 12/01/2022, the session was convened via virtual communication in accordance with remote litigation procedures based on Clause No. (2) of Article (15) of Tax Dispute and Violation Committee Procedures, issued by Royal Order No. (26040) 21/04/1441 AH; Upon calling the parties to the case, the plaintiff or their representative did not appear, despite having been duly notified of the hearing date. However, (...) (...) National ID No....., in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated (.....) issued by the Deputy Governor for Legal Affairs, and as the Department decided to proceed with the case due to its suitability for adjudication in accordance with the provisions of Article (20) of Tax Committee Procedures, the Department asked the representative of the defendant for their response to the case. The representative replied according to the details in the reply memorandum and upheld what was stated therein. Accordingly, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of GCC States, the relevant laws and regulations.

In Form: 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 the case documents and the responses of both parties, after granting them sufficient time to present their arguments and evidence, the Department has established that the dispute revolves around the imposition of a field inspection fine for allegedly obstructing or preventing Authority employees from performing their duties. A final assessment for the third quarter of 2020 was conducted, and a fine of (10,000) SAR was imposed due to the alleged obstruction of an Authority employee. However, it was found that no field visit was conducted by ZATCA's employee, nor was there any communication with the plaintiff. Furthermore, the plaintiff affirmed their compliance with all applicable laws and regulations, and no violation was proven. As a result, the Department concludes that the plaintiff's objection is valid and rules to revoke ZATCA's decision.

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

Decision:

First: Accept case in form.
Second: Acceptance of the plaintiff's objection on the merits and revocation of the field inspection fine related to obstructing or preventing Authority employees from performing their duties.
This decision has been issued in the presence of both parties, in accordance with the provisions of Article 21 of The Tax Dispute and Violation Committee Procedures. The Department has set a period of 30 days for the receipt of a copy of the decision. The Department may extend the period for an additional 30 days as it deems appropriate. This decision is final and enforceable, in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Committee for Determination of Tax Violations and Disputes
Second Department for Determination of Income Tax Disputes and Violations in Dammam

Decision No. VSR-2022-910
Case No. 53562-2021-V

Key words:
Value Added Tax – Field Inspection fine – Failure to Retain Tax Records and Invoices – Case Dismissed

Abstract

The Taxpayer requests the cancellation of ZATCA's decision regarding the imposition of a field inspection fine for failing to retain tax records and invoices for the tax period of January 2021, amounting to (10,000) SAR. The dispute revolves around the imposition of a field inspection fine. However, the Department found that the Taxpayer failed to provide any documents or records proving the retention of invoices for prior periods. As a result, the Taxpayer's case regarding the fine for failure to retain tax records and invoices is dismissed on the merits.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article (36) and Article (45) of the Value Added Tax Law, issued pursuant to Royal Decree No. (M/113) dated 02/11/1438 AH.
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- 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 66.1 of The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly) No. (3839) dated 14/12/1438 AH corresponding to 14/11/2016 AD

Facts:

Facts of the case are summarized that ....., holder of National ID number (.....), in his capacity as the owner of (...), with Commercial Registration No. (...), filed a case objecting to ZATCA's decision regarding the imposition of a field inspection fine for failing to retain tax records and invoices for the tax period of January 2021, amounting to (10,000) SAR. The plaintiff requests the annulment of the defendant's decision.

Having presented the statement of claims to Defendant, it answered as follows: Substantive Defense: 1- On 03/12/2021, representatives of ZATCA visited the plaintiff's site during a field campaign to verify compliance with the VAT Law and its implementing regulations. It was found that the plaintiff failed to retain records, documents, and tax invoices, which constitutes a violation of Paragraph 1 of Article 66 of the Implementing Regulations of the VAT Law. This article states: "A taxable person must retain invoices, records, and accounting documents required to be kept under the provisions of the Law and these regulations for a period of at least six (6) years from the

end of the tax period to which they relate." 2- After confirming the plaintiff's violation of the VAT Law and its implementing regulations as outlined above, ZATCA imposed a fine of 10,000 SAR on the plaintiff, based on Paragraph 1 of Article 45 of the VAT Law. This article stipulates: "A fine not exceeding 50,000 SAR shall be imposed on any person who: 1. Fails to retain tax invoices, books, records, and accounting documents during the period specified in the regulations, with the fine being applicable for each tax period." Second: Requests: Based on the above, ZATCA requests the committee to issue a ruling dismissing the case. End of Answer.
On Thursday, 17/06/1443 AH (corresponding to 20/01/2022 AD), the session was opened via virtual communication, in accordance with the remote litigation procedures. This was based on Clause (2) of Article 15 of the Rules of Procedure for Tax Violations and Disputes Committees, issued by Royal Decree No. (26040) dated 21/04/1441 AH. Upon calling the parties to the case, the plaintiff or their legal representative did not appear, despite being duly notified of the session date. However, (...), holding Civil Registry ID No. (...), attended as the representative of the defendant, the Zakat, Tax, and Customs Authority, pursuant to the authorization letter No. (...) dated (...), issued by the Deputy Governor for Legal Affairs. As the Department decided to proceed with the case, considering its jurisdiction to adjudicate it under Article (20) of The Tax Dispute and Violation Committee Procedures, the Department asked the defendant's representative to respond to the case petition. She stated that she adhered to the contents of the defense memorandum and upheld its arguments. Accordingly, the Department decided to adjourn the session for deliberation in preparation for issuing a decision.

Grounds

After reviewing the case documents and conducting a thorough examination, and after referring to the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH and its amendments, as well as its Implementing Regulations issued by Ministerial Decision No. (1535) dated 11/06/1425 AH and its amendments, and based on the Value Added Tax (VAT) Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH and its amendments, along with its Implementing Regulations issued by Decision No. (3839) of the Board of Directors of the Zakat, Tax, and Customs Authority dated 14/12/1438 AH and its amendments, and in accordance with the Rules of Procedure for Tax Violations and Disputes Committees issued by Royal Order No. (26040) dated 11/06/1441 AH, as well as the Common VAT Agreement for the Gulf Cooperation Council (GCC) Member States, and other relevant laws and regulations.
In Form: 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 examining the case documents and reviewing the responses of both parties, after granting them sufficient time to present their arguments, it has been established that the dispute revolves around the imposition of a field inspection fine due to the failure to retain records and tax invoices for the tax period of January 2021, amounting to 10,000 SAR. Article 36 of the Value Added Tax (VAT) Law states: "The regulations shall determine the period required for retaining tax invoices, books, records, and accounting documents." Furthermore, Paragraph (1) of Article 66 of the Implementing Regulations of the VAT Law states: "A taxable person must retain invoices, records, and accounting documents required to be kept under the provisions of the Law and these regulations for a period of at least six (6) years from the end of the tax period to which they relate." Additionally, Article (45) of the VAT Law states: "A fine not exceeding fifty thousand (50,000) SAR shall be imposed on anyone who: 1- Fails to retain tax invoices, books, records, and accounting documents during the period specified in the regulations, with the fine applicable for each tax period." ZATCA based its decision on the field inspection conducted at the establishment of (...) on ../../.., which was signed by the Taxpayer's representative (...). During the inspection, the auditor requested the seller to provide records, documents, and tax invoices, but it was found that they were not retained. Additionally, the plaintiff did not submit any documents or records to

prove the retention of invoices for previous periods. The plaintiff's argument that the business was in a handover process, had not officially commenced operations, and had not yet obtained a municipal license to practice the profession is not a valid defense in the case. This does not exempt the plaintiff from paying the fine imposed due to the violation of the provisions of the VAT Law and its Implementing Regulations, specifically Paragraph (1) of Article 66 of the Implementing Regulations of the VAT Law. Accordingly, the imposition of the fine amounting to 10,000 SAR was justified, as per Article 45 of the VAT Law. The Department, therefore, deems the fine of 10,000 SAR to be valid.

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

Decision:

First: Accept Plaintiff's case in form.

Second: The plaintiff's claim regarding the fine for failure to retain tax invoices and records is dismissed.

This decision is issued in the presence of both parties, in accordance with Article 56 of the Law of Civil Procedures and is considered final and enforceable pursuant to 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
Second Department for Determination of Income Tax Disputes and Violations in Riyadh

Decision No. VSR-2022-911
Case No. 55789-2021-V

Key words:
Value Added Tax (VAT) – Late Registration fine – Mandatory Registration Threshold

Abstract

The Taxpayer seeks the cancellation of ZATCA's decision regarding the imposition of a late registration fine amounting to 10,000 SAR, requesting the revocation of the defendant's decision concerning the fine. The dispute centers on the late registration fine, and upon review, the Department found that the defendant failed to provide sufficient evidence proving that the Taxpayer had exceeded the mandatory registration threshold. As a result, the Department has decided to annul the defendant's decision regarding the late registration fine.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- 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 (6) of the Implementing Regulations of Value Added Tax Law issued by resolution of the Board of Directors of ZATCA No. (3839) on 14/14/1438 AH.

Facts:

Facts of the case are summarized that ....., holder of National ID number (.....), and in his capacity as the owner of (...) Establishment, Commercial Registration No. (...), filed a statement of claim objecting to ZATCA's decision to impose a late registration fine amounting to 10,000 SAR and requested the cancellation of the defendant's decision. Having presented the statement of claim to Defendant, it answered as follows: "First: Subjective Plea: 1. The decision is presumed to be valid and sound, and whoever claims otherwise shall provide proof supporting his claims. 2. Paragraph (2) of Article (50) of the Common VAT Agreement of the States of the Gulf Cooperation Council states that "The Mandatory Registration Threshold shall be SAR 375,000" 3- Article (3) of the Implementing Regulations of the VAT Law stipulates: "Any person residing in the Kingdom who is not registered with the Authority must, at the end of each month, calculate the value of their supplies over the previous twelve months in accordance with the requirements set forth in the Agreement. If this value exceeds the mandatory registration threshold specified in the Agreement, they must submit a registration request to the Authority within thirty (30) days from the end of that month, in accordance with Article 8 of these Regulations." 4. Article (6) of the Implementing Regulations of the Value Added Tax (VAT) Law

states that: "If any person required to register fails to submit a registration application to the Authority in accordance with these Regulations, the Authority may register them without requiring a formal application. The registration shall take effect from the date specified in Articles 3 and 4 of these Regulations." Upon reviewing the plaintiff's data with the Central Bank, it was found that they had exceeded the mandatory registration threshold. Based on the above, the imposition of the late registration fine is legally valid, in accordance with Article (1) of the VAT Law, which states:

"Anyone who fails to submit a registration request within the period specified in the regulations shall be subject to a fine of (10,000) ten thousand SAR." Second: Requests: ZATCA requests the Honorable Department to dismiss the Plaintiff's case. End of Answer. On Sunday, 13/06/1443 AH, corresponding to 16/01/2022, the session was convened via virtual communication in accordance with remote litigation procedures based on Clause No. (2) of Article (15) of Tax Dispute and Violation Committee Procedures, issued by Royal Order No. (26040) dated 21/04/1441 AH. On 21/04/1441 AH, upon calling the parties to the case, the plaintiff or their legal representative did not appear, despite having been duly notified of the session date in accordance with regulations. However, (...), holder of National ID No. (...), in her capacity as Defendant's representative by virtue of authorization No. (.....) dated (.....) issued by the Deputy Governor for Legal Affairs. As the Department decided to proceed with the case, considering its jurisdiction to adjudicate it under Article (20) of Tax Dispute and Violation Committee Procedures, the Department asked the defendant's representative to respond to the case petition. She stated that she adhered to the contents of the defense memorandum and upheld its arguments. Accordingly, the Department decided to adjourn the session for deliberation in preparation for issuing a decision.

Grounds

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of GCC States, the relevant laws and regulations.

In Form: 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 examining the case documents and the responses of both parties, after granting them sufficient time to present their arguments, the Department found that the dispute centers on the imposition of a late registration fine amounting to 10,000 SAR. It was found that ZATCA registered the plaintiff for VAT, in accordance with Article (6) of the Implementing Regulations of the VAT Law, based on the plaintiff's data with the Central Bank, which indicated that their supplies had exceeded the mandatory registration threshold. However, ZATCA did not provide the specific data on which this decision was based. The plaintiff (...) objected to the imposed fine, claiming that they did not exceed the mandatory registration threshold. Furthermore, the defendant (ZATCA) did not provide sufficient evidence proving that the plaintiff had indeed surpassed the registration threshold. Accordingly, the Department deems ZATCA's decision to impose the late registration fine of 10,000 SAR to be invalid and annuls ZATCA's decision. Based on the above, and in accordance with the Common VAT Agreement, the VAT Law and its Implementing Regulations, and the Rules of Procedure for Tax Violations and Disputes Committees, the Department, after deliberation, has unanimously decided:

Decision:

First: Accept case in form.

Second: The claim is accepted on its merits, and the defendant's decision regarding the late registration fine is annulled.

This decision is issued in the presence of both parties, in accordance with Article 56 of the Law of Civil Procedures. The Department has set a thirty (30) day period for receiving a copy of the decision, with the option to extend the deadline for an additional thirty (30) days at the Department's discretion. This decision is final and enforceable, in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

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

Decision No. VSR-2022-912
Case No. 56158-2021-V

Key words:
Value Added Tax (VAT) – Field Inspection fine – Fine for Missing Tax Number on Invoice – Violation of the Implementing Regulations of the VAT Law – Rejection of the Plaintiff's Claim

Abstract

The Taxpayer requested the cancellation of ZATCA's decision regarding the imposition of a field inspection fine for violating the provisions of the VAT Law or its Implementing Regulations (due to the absence of a tax number on the invoice) for the tax period of Q2 2021. The dispute revolves around the field inspection fine, and upon review, the Department found that the Taxpayer had committed a violation by issuing an invoice with an incomplete (incorrect) tax number. As a result, the Taxpayer's claim regarding the fine of 10,000 SAR for violating the provisions of the VAT Law or its Implementing Regulations is rejected.

Instruments:

- 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
- Paragraph (1) of Article (23) and Paragraph (3) of Article (45) of the Value Added Tax (VAT) Law, issued pursuant to Royal Decree No. (M/113), dated 02/11/1438 AH.
- Common VAT Agreement of GCC states of November 2016
- Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. (1535) of 11/06/1425 AH
- Paragraph (B/ 8) of Article (53) of the Implementing Regulations of the VAT Law, issued pursuant to Decision No. (3839) of the Board of Directors of the General Authority of Zakat and Tax (formerly), dated 14 Dhul-Hijjah 1438 AH (corresponding to November 14, 2016).

Facts:

Facts of the case are summarized that ....., holder of National ID number (.....), and in her capacity as the owner of (...) Establishment, Commercial Registration No. (...), filed a statement of claim objecting to ZATCA's decision to impose a field inspection fine due to a violation of the VAT Law or its Implementing Regulations (failure to include a tax number on the invoice) for the tax period of Q2 2021. She requests the cancellation of the defendant's decision.
Having presented the statement of claims to Defendant, it answered as follows: Substantive Defense: 1. On 14/04/2021, representatives of ZATCA visited the plaintiff's premises and examined the tax invoices issued by the plaintiff. Upon inspection, it was found that the invoices did not comply with the tax invoice requirements stipulated in Paragraph (c) of Clause 5, Article 53 of the Implementing Regulations of the VAT Law, which states:

"c- The supplier's tax identification number (TIN)." Upon reviewing the invoices that were seized, it was found that the plaintiff's tax identification number was incorrect. Therefore, ZATCA upholds the validity of its decision to impose the fine in question. 2. Having verified Plaintiff violation of Excise Tax Law and its Implementing Regulations as stated above, ZATCA fined Plaintiff an amount of SAR 10,000 based on Article 23.3 of Excise Tax Law, which states: "A fine not exceeding 50,000 SAR shall be imposed on any person who: 3. violates any other provision of the Law or the Regulations". Second: Requests: Based on the above, ZATCA requests that the committee rule to reject the case. End of Answer.

On Sunday, 20/06/1443 AH, corresponding to 23/01/2022, the session was convened via virtual communication in accordance with remote litigation procedures based on Clause No. (2) of Article (15) of Tax Dispute and Violation Committee Procedures, issued by Royal Order No. (26040) dated 21/04/1441 AH. 21/04/1441 AH. Having called the parties to the Case, the Department found that Plaintiff (...), Civil Registry No. (...), and (...) ID No..... in her capacity as Defendant's representative by virtue of authorization No. (.....) dated (.....) Issued by the Deputy Governor for Legal Affairs. When the plaintiff was asked about her claim, she responded in accordance with the statement of claim and adhered to its contents. When the defendant's representative was asked for her response, she replied in accordance with the defense memorandum and upheld its contents. When both parties were asked if they had anything further to add, they declared their reliance on their previous submissions. Accordingly, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

After reviewing the case documents and conducting a thorough examination, and after referring to the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH and its amendments, as well as its Implementing Regulations issued by Ministerial Decision No. (1535) dated 11/06/1425 AH and its amendments, and based on the Value Added Tax (VAT) Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH and its amendments, along with its Implementing Regulations issued by Decision No. (3839) of the Board of Directors of the Zakat, Tax, and Customs Authority dated 14/12/1438 AH and its amendments, and in accordance with the Rules of Procedure for Tax Violations and Disputes Committees issued by Royal Order No. (26040) dated 11/06/1441 AH, as well as the Common VAT Agreement for the Gulf Cooperation Council (GCC) Member States, and other relevant laws and regulations.

In Form: 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 examining the case documents and the responses of both parties, after granting them sufficient time to present their arguments, the Department found that the dispute centers on the imposition of a field inspection fine due to a violation of the VAT Law or its Implementing Regulations (failure to include a tax number on the invoice) for the tax period of Q2 2021. Paragraph (1) of Article 23 of the VAT Law, which pertains to tax invoices, states: "The regulations shall specify the following:1- The contents and format of tax invoices, as well as the timeframes for their issuance." Additionally, Paragraph (B/8) of Article 53 of the Implementing Regulations of the VAT Law, which relates to tax invoices, states: "A simplified tax invoice must include the following details:" B. Name and address of the supplier and their tax identification number. Article (45.3) of the VAT Law also states, "A fine not exceeding 50,000 riyals shall be imposed on any person who: 3. Violates any other provision of the Law or the Regulations." The plaintiff admitted to the violation, stating: "The establishment was fined an amount of (10,000) SAR due to the last five digits of the tax number being missing." This confirms that the plaintiff issued an invoice with an incomplete (incorrect) tax number, which constitutes a violation of Paragraph (B/8) of Article 53 of the Implementing Regulations of the VAT Law. As for the plaintiff's defense, claiming that there was a system malfunction, she was required to issue manual invoices until the issue was

resolved and ensure that all invoices contained a complete and correct tax number. The justification of ignorance is not accepted, as Article 53 of the Regulations clearly specifies the mandatory requirements for tax invoices of all types. Accordingly, the Department deems the defendant's decision to be valid, pursuant to Paragraph (3) of Article 45 of the VAT Law.
Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department after deliberation unanimously decided to:

Decision:

First: Accept Plaintiff's case in form.
Second: Rejection of the plaintiff's case regarding the fine for violating the provisions of the system or regulation in the amount of 10,000 SAR.
This decision was issued in the presence of both parties and is considered final and enforceable, in accordance with Article 42 of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Committee for Determination of Tax Violations and Disputes
Second Department for Determination of Income Tax Disputes and Violations in Dammam

Decision No. VSR-2022-919
Case No. -202150913-V

Key words:
Value Added Tax (VAT) – Field Inspection fine – Simplified Invoice Requirements – Missing Tax Number

Abstract

The Taxpayer seeks the cancellation of ZATCA's decision to impose a field inspection fine due to a violation of the VAT Law or its Implementing Regulations (failure to include the invoice issuance date) amounting to 10,000 SAR. The dispute revolves around the field inspection fine, and upon review, the Department found that the tax invoices did not include an issuance date, which constitutes a clear violation of the relevant legal provisions. As a result, the Taxpayer's claim regarding the field inspection fine is dismissed on its merits.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- 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 53.7 of The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly) No. (3839) dated 14/12/1438 AH corresponding to 14/11/2016 AD

Facts:

The facts of this case are summarized as follows: (...), holding National ID No. (...), and in her capacity as the owner of (...), Commercial Registration No. (...), filed a statement of claim objecting to ZATCA's decision to impose a field inspection fine due to a violation of the VAT Law or its Implementing Regulations (failure to include the invoice issuance date) amounting to 10,000 SAR. She requests the cancellation of the defendant's decision.

Having presented the statement of claim to Defendant, it answered as follows: "First: Subjective Plea: 1- On 01/02/2021, representatives of ZATCA conducted an on-site inspection of the plaintiff's premises after receiving a report indicating that the plaintiff had violated the provisions of the VAT Law and its Implementing Regulations. Upon reviewing the records, documents, and tax invoices, it was found that the invoices did not include an issuance date, which constitutes a violation of Paragraph 7 of Article 53 of the Implementing Regulations of the VAT Law, which states: "A simplified tax invoice must contain the following details: A- Date of issuance." 2- After

confirming the plaintiff's violation of the VAT Law and its Implementing Regulations, as outlined above, ZATCA imposed a fine under Decision No. (...) dated 02/02/2021, amounting to 10,000 SAR, in accordance with Paragraph (3) of Article 45 of the VAT Law, which states: "A fine not exceeding fifty thousand (50,000) SAR shall be imposed on any person who:" 3. Violates any other provision of the Law or the Regulations." Second: Requests: ZATCA requests the Honorable Department to dismiss the Plaintiff's case. End of Answer.

On Thursday, 17/06/1443 Ah, 20/01/2022 AD, the Department held its session via video conference in accordance with remote litigation procedures pursuant to Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the case, Mr..... Civil Registry Number (...), in his capacity as representative of the plaintiff, based on the power of attorney number (...). and (...) Civil Registry No. (...), in her capacity as Defendant's representative by virtue of authorization No. (.....) dated (.....) Issued by the Deputy Governor for Legal Affairs. When the plaintiff's representative was asked about the plaintiff's claim, he responded in accordance with the statement of claim and upheld its contents. When the defendant's representative was asked for her response, she replied in accordance with the defense memorandum and insisted on the procedural defense. Upon reviewing the case documents, the Department decided to accept the claim procedurally. Accordingly, the defendant's representative presented the field inspection report and the disputed invoices during the session. When these were shown to the plaintiff's representative, he responded that they were disbursement order invoices, typically used by companies. When both parties were asked if they had anything further to add, they declared their reliance on their previous submissions. As a result, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of GCC States, the relevant laws and regulations.

In Form: 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 examining the case documents and the responses of both parties, after granting them sufficient time to present their arguments, the Department found that the dispute centers on the imposition of a field inspection fine due to a violation of the VAT Law or its Implementing Regulations (failure to include the invoice issuance date) amounting to 10,000 SAR. It was found that the plaintiff is seeking the cancellation of the imposed fine, which resulted from the absence of an issuance date on the invoice, as stated in the field inspection fine notice attached to the case file. Paragraph 7 of Article 53 of the Implementing Regulations of the VAT Law states: "A simplified tax invoice must contain the following details:" A- Date of issuance." "When the defendant presented the inspection report and the invoices in question during the inspection visit to the plaintiff's site on 01/02/2021, the plaintiff did not provide any evidence proving the validity of its position or supporting its claim. Accordingly, the Department has established that the tax invoices were not dated, which constitutes a clear violation of the relevant legal provisions. The plaintiff's argument that the invoices in question are merely payment orders issued to companies that pay at the end of the month does not affect this conclusion. In light of this, the Department finds the defendant's decision to impose the fine to be valid."

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

Decision:

First: Accept case in form.
Second: Plaintiff's claim regarding the field inspection fine is dismissed on its merits.
This decision was made in presence of both parties. The Department has set a thirty-day deadline for receiving copy of decision. The Department may extend delivery date for a further thirty days as it deems appropriate. This decision is final and enforceable, in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Committee for Determination of Tax Violations and Disputes
Second Department for Determination of Income Tax Disputes and Violations In Riyadh

Decision No. VSR-2022-924
Case No. 56295-2021-V

Key words:
Value Added Tax – Failure to Display VAT Registration Certificate – Fine for Violating Law Provisions – An Administrative Decision Must Be Based on a Reason at the Time of Issuance – Decision Flawed by Lack of Justification

Decision:

The Taxpayer requests the cancellation of ZATCA's decision to impose a fine of 10,000 SAR for violating the provisions of the Law or its regulations due to the failure to clearly display the VAT registration certificate to the public at the establishment. The dispute revolves around the imposition of this fine for violating the Law's provisions. Upon review, the Department found that the Taxpayer submitted an inspection report related to the establishment, which the Taxpayer disputes as inaccurate. Additionally, the Taxpayer provided a copy of the national address of the establishment and stated that the establishment in question does not belong to them. As a result, the claim is accepted on its merits, and the defendant's decision to impose a 10,000 SAR fine for violating the provisions of the Law is annulled.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article 67(b) of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- 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 68.1 of The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly) No. (3839) dated 14/12/1438 AH corresponding to 14/11/2016 AD

Facts:

The facts of this case are summed up in that Mr....., holder of National ID No. (...), as the legal representative of the plaintiff company, with commercial registration number (...), submitted a statement of claim objecting to ZATCA's decision to impose a fine of 10,000 SAR for violating the provisions of the Law or its regulations due to the failure to clearly display the VAT registration certificate to the public at the establishment. She requests annulment of defendant's decision. Having presented the statement of claim to Defendant, it answered as follows: "First: Subjective Plea: 1. On February 14, 2021, representatives of ZATCA visited the plaintiff's premises as part of a field campaign to ensure proper compliance with the Value Added Tax (VAT) Law and its

Implementing Regulations. After the inspection, it was found that the plaintiff had violated Paragraph (8) of Article 8 of the Implementing Regulations of the VAT Law, which states: "A resident taxable person registered with ZATCA is required to display the registration certificate at their main place of business and branches in a manner that is clearly visible to the public." 2. After confirming that the Plaintiff had violated the provisions of the VAT Law and its Implementing Regulations, as outlined above, ZATCA imposed a fine of 10,000 SAR on the Plaintiff, in accordance with Paragraph 3 of Article 45 of the VAT Law, which states: "A fine not exceeding fifty thousand (50,000) SAR shall be imposed on anyone who: " 3. violates any other provision of the Law or the Regulations". Second: Requests: ZATCA requests the Honorable Department to dismiss the Plaintiff's case. End of Answer. On Sunday, 20/06/1443 AH, corresponding to 23/01/2022, the session was convened via virtual communication in accordance with remote litigation procedures based on Clause No. (2) of Article (15) of Tax Dispute and Violation Committee Procedures, issued by Royal Order No. (26040) dated 21/04/1441 AH. On 21/4/1441 AH, upon calling the parties to the case, no legal representative of the plaintiff was present, despite the confirmed notification of the hearing date. However, (...), holding Civil Registry ID No. (...), attended as the representative of the defendant (...) based on Authorization Letter No. (...) dated (...), issued by the Deputy Governor for Legal Affairs. As the Department decided to proceed with the case in accordance with its jurisdiction under Article (20) of the Rules of Procedure for Committees, the defendant's representative was asked to respond to the statement of claim. She replied in accordance with the defense memorandum and affirmed adherence to its contents. Accordingly, the Department decided to adjourn the session for deliberation in preparation for issuing the decision.

Grounds

Having taken cognizance of Case documents and perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, as amended, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, Implementing Regulations of the Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/12/1438 AH, as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of GCC States, the relevant laws and regulations. In Form: 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 the case documents and the responses of both parties, after granting them sufficient time to present their arguments and evidence, the Department has established that the dispute concerns the imposition of a fine of 10,000 SAR for violating the provisions of the Law or its regulations due to the failure to clearly display the VAT registration certificate to the public at the establishment. Since administrative decisions issued by the General Authority of Zakat and Tax (GAZT) are subject to judicial review, as stipulated in Paragraph (1) of Article (68) of the Implementing Regulations of the VAT Law and Paragraph (b) of Article (67) of the Income Tax Law, as amended by Royal Decree No. (M/113), they must be examined for legal compliance and validity. An administrative decision that lacks one of its essential elements is legally defective and subject to annulment. It is well-established in legal doctrine that an administrative decision must be based on a valid reason that justifies its issuance. This reason is the material fact that precedes and leads to the decision. If this reason does not exist before the issuance of the decision or is not clearly defined and free from ambiguity, the decision is flawed due to a lack of justification, necessitating its annulment. In this case, the plaintiff submitted an inspection report for an establishment under the name (...) located in the (...) district. However, the plaintiff disputes the validity of this report, providing a copy of the national address of their actual establishment (...) in the (...) district. Furthermore, the plaintiff stated that the establishment in question does not belong to them. In light of this, the Department concludes that the imposition of the fine was unjustified

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

Decision:

First: Accept Plaintiff's case in form.
Second: The claim is accepted on its merits, and the defendant's decision to impose a 10,000 SAR fine for violating the provisions of the Law or its regulations is annulled.
This decision is issued in the presence of both parties, in accordance with Article 56 of the Law of Civil Procedures. The Department has set a thirty (30) day period for receiving a copy of the decision, with the option to extend the deadline for an additional thirty (30) days at the Department's discretion. This decision is final and enforceable, in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Committee for Determination of Tax Violations and Disputes
Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh

Decision No. VTR-2022-182
Case No. V-65756-2021

Key words:
Value Added Tax – Field Inspection Fine – Incorrect Tax Identification Number – Simplified Invoice Requirements – Fine for Failure to Retain Records, Documents, and Tax Invoices

Abstract

The Taxpayer requests the annulment of ZATCA's decision to impose a field inspection fine of 10,000 SAR due to an incorrect tax identification number. The dispute revolves around the defendant's imposition of the field inspection fine on the Taxpayer. Upon review, the Department found that the conditions stipulated in the aforementioned articles were not met in the Taxpayer's case. Therefore, the Department decided to cancel Defendant decision.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article 45 of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- 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 (1) of Article (23) and Paragraph (8) of Article (53) of the Implementing Regulations of VAT Law, issued pursuant to the decision of the Board of Directors of the former General Authority of Zakat and Tax (GAZT), No. (3839), dated 14 Dhul-Hijjah 1438 AH, corresponding to November 14, 2016.

Facts:

The facts of this case are summarized as follows: (...), holding National ID No. (...), as the owner of (...) Establishment, under Commercial Registration No. (...), submitted a statement of claim objecting to the defendant's decision to impose a field inspection fine of 10,000 SAR due to an incorrect tax identification number and requests the annulment of the decision.
Having presented the statement of claim to Defendant (ZATCA), Defendant answered as follows: "1. On July 7, 2021, representatives of ZATCA visited the plaintiff's premises and examined the simplified invoices issued by the plaintiff after receiving a report alleging a violation of the Value Added Tax (VAT) Law and its Implementing Regulations. Upon inspection, it was found that the plaintiff had violated the simplified invoice requirements stated in Paragraph (b) of Clause (8) of Article 53 of the Implementing Regulations of the VAT Law. Upon reviewing the invoices seized, it was determined that the tax identification number recorded on them was incorrect. Accordingly,

ZATCA upholds the validity of its decision to impose the fine in question. 2- After verifying that the plaintiff had violated the provisions of the VAT Law and its Implementing Regulations, as outlined above, ZATCA imposed a fine of 10,000 SAR on the plaintiff, based on Paragraph (1) of Article 45 of the VAT Law. Defendant representative concluded his Reply with requesting dismissal of the case. End of Answer.

On Sunday, January 30, 2022, the session was opened and held via video conferencing in accordance with remote litigation procedures, based on Clause (Second) of Article (15) of the Rules of Procedure for Tax Violation and Dispute Resolution Committees, issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the case, the plaintiff appeared in person. Additionally, (...) attended (...) National ID No....., in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated (.....) issued by Deputy Governor for Legal Affairs. Having asked Plaintiff attorney about his case, he maintained his statements contained in the statement of claims submitted to General Secretariat of Zakat, Tax and Customs Committees, and having asked Defendant's representative about his reply, he maintained his answers contained in his replication. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

Having taken cognizance of documents included in Case file, and perused the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by Board of Directors of the General Authority of Zakat and Income Resolution No. (3839) dated 14/12/1438 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, the Department considered the Case:

In Form: Since the plaintiff aims through his case to annul the decision of the defendant regarding the imposition of the field control fine, based on the Value Added Tax Law and its implementing regulations, and since this dispute is a tax dispute, it falls under the jurisdiction of the Committee for the Settlement of Income Tax Violations and Disputes, as per Royal Decree No. (26040) dated 21/04/1441 AH. Since the case was filed by an authorized party and within the legally prescribed period, it is required for the Department to accept the case in form.

On Merits: Upon reviewing the case documents and the responses of both parties, after granting them sufficient time to present their arguments and evidence, the Department established that the dispute concerns the defendant's imposition of a field inspection fine of 10,000 SAR on the plaintiff for failure to comply with tax invoice requirements, specifically due to an incorrect tax identification number. Upon examining the facts of the case, the Department found that the field inspection visit by the enforcement officer took place while the plaintiff was testing a new invoicing system. The invoices submitted by the defendant were issued as part of the trial phase of this new system. The plaintiff submitted Invoice No. (...) dated (...), as well as Invoice No. (...) dated (...), and upon review, the Department determined that the tax identification number recorded was (...), which was found to be correct and complete. Furthermore, Paragraph (1) of Article (23) of the VAT Law, related to tax invoices, states:

"The Implementing Regulations shall determine the following:

1- The contents and format of tax invoices and the timeframes for their issuance." Additionally, Paragraph (8) of Article (53) of the Implementing Regulations of the VAT Law stipulates: "A simplified Tax Invoice must include the following details: (b) The name and address of the supplier and their tax identification number." Additionally, Article (45) of the VAT Law states: "A fine not

exceeding 50,000 riyals shall be imposed on any person who: 3. violates any other provision of the Law or the Regulations". Since the provisions outlined in the aforementioned articles were not proven to be applicable to the Taxpayer's case, this necessitates the cancellation of the fine imposed on the plaintiff. In light of the foregoing, and after deliberation, the Department unanimously decided to:

Decision:

Cancel Defendant's decision.

This decision was issued in the presence of both litigants, and Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes
Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh

Decision No. VTR-2022-550
Case No. V-65127-2021

Key words:
Value Added Tax – Field Inspection Fine – Tax Identification Number Violation – Simplified Invoice Requirements Violation

Abstract

The Taxpayer requests the annulment of ZATCA's decision to impose a field inspection fine of 10,000 SAR for an incorrect tax identification number. Upon review, the Department found that the defendant submitted a field inspection report, signed by the Taxpayer's representative on the date of the visit, stating that the violation type was "Incorrect Tax Identification Number." Additionally, the defendant provided the invoice in question, which clearly shows that the Taxpayer recorded the tax identification number incorrectly on the issued invoice. As a result, the claim is dismissed.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- 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/B) of Article (53) of the Implementing Regulations of the VAT Law, issued pursuant to Decision No. (3839) of the Board of Directors of the General Authority of Zakat and Tax (formerly), dated 14 Dhul-Hijjah 1438 AH (corresponding to November 14, 2016).

Facts:

The facts of this case are summarized as follows: The plaintiff (...), holding Commercial Registration No. (...), represented by (...), National ID No. (...), as the legal representative of the plaintiff company, submitted a statement of claim objecting to the defendant's decision to impose a field inspection fine of 10,000 SAR for an incorrect tax identification number, requesting the annulment of the decision.

Having presented the statement of claim to Defendant (ZATCA), Defendant answered as follows: On November 29, 2020, representatives of ZATCA conducted an on-site inspection of the plaintiff's premises and examined the simplified invoices issued. Upon inspection, it was found that the invoices did not comply with the simplified invoice requirements stipulated in Paragraph (b) of Clause (8) of Article 53 of the Implementing Regulations of the VAT Law. After verifying the violation, ZATCA imposed a fine of 10,000 SAR, based on Paragraph (3) of Article 45 of the

VAT Law. Defendant representative concluded his Reply with requesting dismissal of the case. End of Answer.

On Sunday, March 27, 2022, the session was opened and held via video conferencing in accordance with remote litigation procedures, based on Clause (Second) of Article (15) of the Rules of Procedure for Tax Violation and Dispute Resolution Committees, issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the case, plaintiff's representative, (...), was present. (...) under POA No. (...) holder of National ID No. (...), Additionally, (...) attended (...) National ID No....., in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated (.....) Issued by the Deputy Governor for Legal Affairs, the plaintiff's representative was asked about their claim and responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming their adherence to its contents. When the defendant's representative was asked to respond, they confirmed their adherence to the contents of the defense memorandum. Upon asking both parties if they wished to add anything further, they stated that they were satisfied with what had already been submitted. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

Having taken cognizance of documents included in Case file, and perused the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by Board of Directors of the General Authority of Zakat and Income Resolution No. (3839) dated 14/12/1438 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, the Department considered the Case:

In Form: Since the plaintiff's objective in this case is to challenge the defendant's decision to impose a field inspection fine for an incorrect tax identification number, based on the Value Added Tax (VAT) Law and its Implementing Regulations, and since this dispute falls under tax-related matters, it falls within the jurisdiction of the Tax Violations and Disputes Resolution Committee, as per Royal Order No. (26040) dated 21/04/1441 AH. Since the claim was filed by a party with legal standing and within the legally prescribed period, the Department determines that the claim is admissible in form.

On Merits: Upon reviewing the case documents and the responses of both parties, after granting them sufficient time to present their arguments and evidence, the Department established that the defendant issued its decision to impose a field inspection fine of 10,000 SAR for an incorrect tax identification number. The defendant submitted a field inspection report, signed by the Taxpayer's representative on the date of inspection (...), which stated that the violation was "Incorrect Tax Identification Number." Additionally, the defendant provided the invoice in question, identified as Invoice No. (...) dated (...) which clearly showed that the plaintiff had recorded the tax identification number incorrectly on the issued invoice. The plaintiff's submission of additional invoices does not alter this conclusion, as they were issued after the date of the recorded violation, rendering them irrelevant to the matter. Furthermore, Paragraph (8/b) of Article 53 of the Implementing Regulations of the VAT Law, which pertains to tax invoices, states: "A simplified tax invoice must include the following details: (b) The name and address of the supplier and their tax identification number. Additionally, Paragraph (3) of Article (45) of the VAT Law states: "A fine not exceeding 50,000 riyals shall be imposed on any person who: 3. violates any other provision of the Law or the Regulations". Accordingly, the Department concludes that the

defendant's decision to impose the fine was valid. In light of the foregoing, and after deliberation, the Department unanimously decided to:

Decision:

Dismiss Plaintiff Case.

This decision was issued in the presence of both litigants, and Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Key words:
Value Added Tax – Final Reassessment – Zero-Rated Exports – fine for Error in Tax Return

Abstract

The Taxpayer requests the cancellation of ZATCA's decision regarding the final reassessment for the fourth quarter of 2018, specifically concerning the item "locally taxable sales at the standard rate." The Taxpayer objects to the defendant's adjustment of the locally taxable sales at the standard rate through a tax assessment notice. The dispute arises from the fact that the service provided was not proven to be for a client outside the Kingdom, and therefore, the zero percent tax rate on sales was not applicable. Additionally, the dispute concerns the "fine for error in the tax return," which resulted from ZATCA's reassessment of the disputed tax period. Upon review, the Department found that the request regarding the first item was rejected, and since the second item is directly related to it, it follows the same ruling. Therefore, the Department ruled to dismiss the Taxpayer's case.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 21/04/1441 AH
- Common VAT Agreement of GCC states of November 2016
- Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH
- Article (42.1) of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. (1535) of 11/06/1425 AH
- Articles (14), Paragraph (1) of Article (33) of the Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/14/1438 AH.

Facts:

The facts of this case are summarized as follows: The company (...), holding Commercial Registration No. (...), submitted a statement of claim through (...), Resident ID No. (...), in his capacity as the manager of the plaintiff company. The claim includes an objection to the defendant's decision regarding the final reassessment for the fourth quarter of 2018 and the fines resulting from the reassessment, requesting the cancellation of the decision and the imposed fines. Having presented the statement of claims to the Defendant, it responded as follows: First: In from: We inform Your Excellency that the plaintiff had a pending objection under review by ZATCA on (..-..-.... AD) with the reference number (...). Subsequently, the Taxpayer submitted their objection to the General Secretariat before the Authority issued its decision rejecting the objection

on (..-..-.... AD). From the above, it is evident that the plaintiff filed their claim before ZATCA had ruled on the objection and before the expiration of the 90-day period specified in Article (2) of the Rules of Procedure for Tax Violation and Dispute Resolution Committees. "Any person against whom a decision has been issued by GAZT may file an objection before it within 60 days from the date of notification thereof. GAZT shall decide on the objection within 90 days from the date of filing. If a decision is made to deny the objection or a period of 90 days lapses without deciding thereon, a taxpayer may, within 30 days from the date of being notified of the denial of the objection or upon the lapse of 90 days without a decision thereon, take any of the following actions: 1. Request the referral of the objection to the internal committee for settlement. If a Taxpayer rejects the internal committee's decision or if the period specified in the Settlement Procedures lapses without reaching a settlement, the Taxpayer may file a case before the dispute committee against GAZT's decision within 30 days from the date of being notified of the internal committee's decision or upon the lapse of the period specified in the Settlement Procedures without reaching a settlement. Such case shall not include issues settled with the internal committee. 2. File a case directly before the dispute committee". It is evident that the plaintiff violated procedural regulations, as the right to file the claim was within thirty (30) days from the date of being notified of the rejection of their objection. The claim should have been filed after ZATCA issued its decision. Accordingly, the filed claim is premature. Second: On Merits: 1- Regarding the Plaintiff's Objection to the Adjustment of the Zero-Rated Exports for the Fourth Quarter of 2018: The reassessment resulted in an adjustment to the zero-rated exports and the complete exclusion of the standard-rated sales item due to non-compliance with the conditions stipulated in Article 33 of the Implementing Regulations of the VAT Law. This article clarifies the services supplied to non-residents of GCC countries. 2- During the Objection Review Stage: ZATCA determined that the services were provided to a resident in the Kingdom (... Company), and the amount in question was related to the installation and maintenance of equipment and machinery with (...) Company. Accordingly, ZATCA's action was legally compliant, subjecting the amount to the standard-rated local sales category. Additionally, (...) Company has a branch within the Kingdom, and the final beneficiary of the services is also located in the Kingdom. The plaintiff confirmed the nature of the services provided to clients. The zero percent VAT rate does not apply if: The client is a resident of any GCC member state. The services are utilized within the Kingdom, where the final beneficiary has a fixed establishment or place of residence in the Kingdom or another GCC member state.

Since the clients have branches inside the Kingdom, it is evident that the conditions outlined in Article 33 of the Implementing Regulations of the VAT Law do not apply. 3. As a result of the audit and reassessment of the disputed tax period, the fine for error in the tax return was imposed, along with a late payment fine for the subsequent months following the disputed tax period." Defendant's representative concluded their memorandum by requesting the dismissal of the claim on procedural grounds and the rejection of the case. End of Answer.

On Tuesday, November 30, 2021, during this session, defendant's representative and plaintiff's representative (...), holding National ID No. (...), were present. in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated ../../... AH, issued by the Deputy Governor for Legal Affairs, the plaintiff or their representative failed to appear, despite being duly notified of the session date in accordance with legal procedures. Since a claim abandoned is considered forfeited, the Department unanimously decided to strike the case from the session schedule, in accordance with Article (20) of the Rules of Procedure for Tax Violation and Dispute Resolution Committees.

On 01/12/2022, Plaintiff submitted a request to reopen the Case. The session was scheduled for Monday, February 7, 2022, and was held in accordance with remote litigation procedures. Since both parties wished to proceed with the case, the session took place with the participation of (...), holding National ID No. (...), as the plaintiff's representative, based on Power of Attorney No. (...). Also present was the defendant's representative, (...), holding National ID No. (...), acting as

a representative of the Zakat, Tax, and Customs Authority, pursuant to Authorization Letter No. (...), dated ../../... AH, issued by the Deputy Governor for Legal Affairs. When asked about the claim, the plaintiff's representative responded in accordance with the statement submitted to the General Secretariat of the Tax Committees, affirming adherence to its contents. When asked for a response, the defendant's representative confirmed adherence to the contents of the defense memorandum. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Therefore, the Department decided that parties to the Case should temporarily leave the virtual room for deliberation and adjudication.

Grounds

After reviewing the case documents and conducting a thorough examination, and based on the Value Added Tax (VAT) Law, issued by Royal Decree No. (M/113) dated 02/11/1438 AH, and its amendments, as well as the Implementing Regulations of the VAT Law, issued by the General Authority of Zakat and Tax Board of Directors under Resolution No. (3839) dated 14/12/1438 AH, and its amendments, and in accordance with the Rules of Procedure for Tax Violation and Dispute Resolution Committees, issued by Royal Order No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

Regarding the Formal Aspects of the Case: Since the plaintiff's objective is to annul the defendant's decision regarding the final reassessment for the fourth quarter of 2018, along with the fines resulting from the reassessment, based on the VAT Law and its Implementing Regulations, and since this dispute is tax-related, it falls within the jurisdiction of the Tax Violations and Disputes Resolution Committee, in accordance with Royal Decree No. (M/113) dated 02/11/1438 AH. Additionally, since the claim was filed by a party with legal standing and within the legally prescribed timeframe, the Department determines that the claim is admissible in form.

On merits, Upon reviewing the case documents and the responses of both parties, after granting them sufficient time to present their arguments and evidence: First: Regarding Zero-Rated Exports: It is evident that the dispute arises from ZATCA's reassessment of the disputed tax return, as ZATCA classified the supplies under the standard tax rate due to the plaintiff's failure to meet the conditions stipulated in Article (33) of the Implementing Regulations of the VAT Law. Furthermore, Article (14) of the Implementing Regulations of the VAT Law states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom". In addition, Paragraph (1) of Article (33) of the Implementing Regulations of VAT Law provides: "The supply of services by a taxable person to a customer who does not have a place of residence in any Member State shall be subject to the zero percent rate, provided that all of the following conditions are met: (a) The supply of such services does not take place in any Member State according to the special cases listed in Articles 17 to 21 of the Agreement. (b) The taxable person does not have evidence that the customer has a place of residence in any Member State and has evidence that the customer is residing outside the GCC countries. (c) Neither the customer nor any other person benefits from the services while being present in a Member State. (d) The services are not performed on any tangible goods located within a Member State at the time of supply. (e) The taxable person intends for the services to be consumed by the customer outside the GCC region. (f) The taxable person does not have evidence that these services will be utilized within the GCC region."

After reviewing the case file in its entirety and the arguments presented, it is evident that the plaintiff objects to ZATCA's reassessment notice, which reclassified local taxable sales at the standard rate. The plaintiff argues that these sales should be classified as zero-rated exports.

However, the defendant asserts that the services provided do not meet the conditions stipulated in Article (33) of the Implementing Regulations, as they were utilized within the Kingdom and were supplied to a resident entity (... Company). Additionally, some services were provided to a branch of (...) Company within the Kingdom, where the final beneficiary of the service is located in the Kingdom.

Upon examining the facts of the case, the Department found that the plaintiff submitted invoices issued to (...) Company without providing any additional documents proving that the service was delivered to a customer outside the Kingdom. Although the plaintiff referenced the submission of an export report and customs clearance documents in the statement of claim, there is no conclusive evidence that the service was provided to a customer outside the Kingdom. Therefore, the zero percent VAT rate does not apply to the sales, as the conditions outlined in Article (33) of the Implementing Regulations of the VAT Law were not met. Accordingly, the Department decides to dismiss the plaintiff's claim.

Second: fine for Error in Tax Return: The dispute revolves around the imposition of a fine for an error in the tax return, which resulted from ZATCA's reassessment of the disputed tax period. Paragraph (1) of Article (42) of the VAT Law states: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due"

It is evident that the fine for error in the tax return resulted from the defendant's adjustment of the plaintiff's tax return for the disputed period. ZATCA determined that there was a discrepancy between the plaintiff's tax return and the reassessment results, leading to additional due tax that was not declared by the plaintiff for the respective period. This constitutes a violation of the legal provisions. Since the claim regarding the first issue was dismissed, and matters related to it follow the same ruling, the Department, in accordance with Paragraph (1) of Article (42) of the VAT Law, decides to dismiss the plaintiff's claim.

The same ruling and reasoning apply to the late payment fine.

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

Decision:

To dismiss Plaintiff case.

This decision was issued in the presence of both litigants, and Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules 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 Dammam

Decision No. VD-2022-244
Case No. V-55585-2021

Key words:
Value Added Tax – Final Reassessment – Zero-Rated Exports – Locally Taxable Sales at the Standard Rate – fine for Error in Tax Return

Abstract

The Taxpayer requests the cancellation of ZATCA's decision regarding the final reassessment for the third quarter of 2019, specifically concerning the item "locally taxable sales at the standard rate." The Taxpayer objects to the defendant's adjustment of the locally taxable sales at the standard rate through a tax assessment notice. The dispute arises from the fact that the service provided was not proven to be for a client outside the Kingdom, and therefore, the zero percent tax rate on sales was not applicable. Additionally, the dispute concerns the "fine for error in the tax return," which resulted from ZATCA's reassessment of the disputed tax period. Upon review, the Department found that the request regarding the first item was dismissed, and since the second item is directly related to it, it follows the same ruling. Therefore, the Department ruled to dismiss the Taxpayer's case.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 21/04/1441 AH
- Common VAT Agreement of GCC states of November 2016
- Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH
- Article (42.1) of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. (1535) of 11/06/1425 AH
- Articles (14), Paragraph (1) of Article (33) of the Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/14/1438 AH.

Facts:

The facts of this case can be summarized as follows: (...) Company, holding Commercial Registration No. (...), submitted a statement of claim through (...), Resident ID No. (...), in his capacity as the manager of the plaintiff company. The claim includes an objection to the defendant's decision regarding the final reassessment for the third quarter of 2019 and the fines resulting from the reassessment, requesting the cancellation of the decision and the imposed fines. Having presented the statement of claims to the Defendant, it responded as follows: First: In from: We inform Your Excellency that the plaintiff had a pending objection under review by ZATCA on (..-..-....) with the reference number (...). Subsequently, the Taxpayer submitted their objection to the General Secretariat before the Authority issued its decision rejecting the objection on (..-..-

.... AD). From the above, it is evident that the plaintiff filed their claim before ZATCA had ruled on the objection and before the expiration of the 90-day period specified in Article (2) of the Rules of Procedure for Tax Violation and Dispute Resolution Committees. "Any person against whom a decision has been issued by GAZT may file an objection before it within 60 days from the date of notification thereof. GAZT shall decide on the objection within 90 days from the date of filing. If a decision is made to deny the objection or a period of 90 days lapses without deciding thereon, a taxpayer may, within 30 days from the date of being notified of the denial of the objection or upon the lapse of 90 days without a decision thereon, take any of the following actions: 1. Request the referral of the objection to the internal committee for settlement. If a Taxpayer rejects the internal committee's decision or if the period specified in the Settlement Procedures lapses without reaching a settlement, the Taxpayer may file a case before the dispute committee against GAZT's decision within 30 days from the date of being notified of the internal committee's decision or upon the lapse of the period specified in the Settlement Procedures without reaching a settlement. Such case shall not include issues settled with the internal committee. 2. File a case directly before the dispute committee". It is evident that the plaintiff violated procedural regulations, as the right to file the claim was within thirty (30) days from the date of being notified of the rejection of their objection. The claim should have been filed after ZATCA issued its decision. Accordingly, the filed claim is premature. Second: On Merits: 1- Regarding plaintiff's objection to the amendment of the export items subject to a zero percent tax rate for the third quarter of 2019: The reassessment resulted in an adjustment to the zero-rated exports and the complete exclusion of the standard-rated sales item due to non-compliance with the conditions stipulated in Article 33 of the Implementing Regulations of the VAT Law. This article clarifies the services supplied to non-residents of GCC countries. 2. During the objection phase, it became clear to ZATCA that the services were supplied to a resident in the Kingdom (... Company). and the amount in question was related to the installation and maintenance of equipment and machinery with (...) Company. Accordingly, ZATCA's action was legally compliant, subjecting the amount to the standard-rated local sales category. Additionally, (...) Company has a branch within the Kingdom, and the final beneficiary of the services is also located in the Kingdom. The plaintiff confirmed the nature of the services provided to clients. The zero percent VAT rate does not apply if: The client is a resident of any GCC member state. The services are utilized within the Kingdom, where the final beneficiary has a fixed establishment or place of residence in the Kingdom or another GCC member state.

Since the clients have branches inside the Kingdom, it is evident that the conditions outlined in Article 33 of the Implementing Regulations of the VAT Law do not apply. 3. As a result of the audit and reassessment of the disputed tax period, the fine for error in the tax return was imposed, along with a late payment fine for the subsequent months following the disputed tax period." Defendant's representative concluded their memorandum by requesting the dismissal of the claim on procedural grounds and the rejection of the case. End of Answer.

On Tuesday, 30/11/2021, in this session, the representative of the defendant and the representative of the plaintiff (...) holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated ../../... AH, issued by the Deputy Governor for Legal Affairs, the plaintiff or their representative failed to appear despite being duly notified of the session date in accordance with legal procedures. Since the plaintiff abandoned the claim, the Department unanimously decided to strike the case from the session schedule, in accordance with Article (20) of the Rules of Procedure for Tax Violation and Dispute Resolution Committees.

On 01/12/2022, Plaintiff submitted a request to reopen the Case. On Monday, 07/02/2022, the session was held remotely via virtual litigation procedures, as both parties wished to proceed with the case holder of National ID No. (...), in his capacity as the attorney for the Plaintiff under POA No. ..... For the Defendant appeared Mr....., holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), on .../.../...AH, as issued by the

Deputy Governor for Legal Affairs, the plaintiff's representative was asked about the claim and responded in accordance with the statement of claim submitted to the General Secretariat of Tax Committees, affirming adherence to its contents. When the defendant's representative was asked about the response, he stated adherence to the contents of the reply memorandum. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Therefore, the Department decided that parties to the Case should temporarily leave the virtual room for deliberation and adjudication.

Grounds

After reviewing the case documents and conducting a thorough examination, and based on the Value Added Tax (VAT) Law, issued by Royal Decree No. (M/113) dated 02/11/1438 AH, and its amendments, as well as the Implementing Regulations of the VAT Law, issued by the General Authority of Zakat and Tax Board of Directors under Resolution No. (3839) dated 14/12/1438 AH, and its amendments, and in accordance with the Rules of Procedure for Tax Violation and Dispute Resolution Committees, issued by Royal Order No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form, since the plaintiff's objective is to annul the defendant's decision regarding the final reassessment for the third quarter of 2019, along with the fines resulting from the reassessment, based on the VAT Law and its Implementing Regulations, and since this dispute is tax-related, it falls within the jurisdiction of the Tax Violations and Disputes Resolution Committee, in accordance with Royal Decree No. (M/113) dated 02/11/1438 AH. Additionally, since the claim was filed by a party with legal standing and within the legally prescribed timeframe, the Department determines that the claim is admissible in form.

On merits, Upon reviewing the case documents and the responses of both parties, after granting them sufficient time to present their arguments and evidence: First: Regarding Zero-Rated Exports: It is evident that the dispute arises from ZATCA's reassessment of the disputed tax return, as ZATCA classified the supplies under the standard tax rate due to the plaintiff's failure to meet the conditions stipulated in Article (33) of the Implementing Regulations of the VAT Law. Furthermore, Article (14) of the Implementing Regulations of the VAT Law states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom". In addition, Paragraph (1) of Article (33) of the Implementing Regulations of VAT Law provides: "The supply of services by a taxable person to a customer who does not have a place of residence in any Member State shall be subject to the zero percent rate, provided that all of the following conditions are met: (a) The supply of such services does not take place in any Member State according to the special cases listed in Articles 17 to 21 of the Agreement. (b) The taxable person does not have evidence that the customer has a place of residence in any Member State and has evidence that the customer is residing outside the GCC countries. (c) Neither the customer nor any other person benefits from the services while being present in a Member State. (d) The services are not performed on any tangible goods located within a Member State at the time of supply. (e) The taxable person intends for the services to be consumed by the customer outside the GCC region. (f) The taxable person does not have evidence that these services will be utilized within the GCC region."

After reviewing the entire case file and the arguments presented, it is evident that the plaintiff objects to the defendant's reassessment notice, which adjusted the locally taxable sales at the standard rate in the plaintiff's tax return. The plaintiff claims that these sales should be classified as zero-rated exports. However, the defendant asserts that the services provided do not meet the

conditions stipulated in Article (33) of the Implementing Regulations, as they were utilized within the Kingdom. The services were provided to a resident entity in the Kingdom (... Company), in addition to services provided to a branch of (...) Company. where the final beneficiary of the service is located in the Kingdom.

Upon examining the facts of the case, the Department found that the plaintiff submitted invoices issued to (...) Company without providing any additional documents proving that the service was delivered to a customer outside the Kingdom. Although the plaintiff referenced the submission of an export report and customs clearance documents in the statement of claim, there is no conclusive evidence that the service was provided to a customer outside the Kingdom. Therefore, the zero percent VAT rate does not apply to the sales, as the conditions outlined in Article (33) of the Implementing Regulations of the VAT Law were not met. Accordingly, the Department decides to dismiss the plaintiff's claim.

Second: fine for Error in Tax Return: The dispute revolves around the imposition of a fine for an error in the tax return, which resulted from ZATCA's reassessment of the disputed tax period. Paragraph (1) of Article (42) of the VAT Law states: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due"

It is evident that the fine for error in the tax return resulted from the defendant's adjustment of the plaintiff's tax return for the disputed period. ZATCA determined that there was a discrepancy between the plaintiff's tax return and the reassessment results, leading to additional due tax that was not declared by the plaintiff for the respective period. This constitutes a violation of the legal provisions. Since the claim regarding the first issue was dismissed, and matters related to it follow the same ruling, the Department, in accordance with Paragraph (1) of Article (42) of the VAT Law, decides to dismiss the plaintiff's claim. The same ruling and reasoning apply to the late payment fine.

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

Decision:

To dismiss Plaintiff case.

This decision was issued in the presence of both litigants, and Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules 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 Dammam

Decision No. VD-2022-436
Case No. V-66602-2021

Key words:
Value Added Tax – Final Reassessment – Tax Period – Locally Taxable Purchases – Case Dismissal

Abstract

The Taxpayer requests the cancellation of ZATCA's decision regarding the final reassessment for the fourth quarter of 2019, specifically concerning the item "locally taxable sales at the standard rate." The dispute arises from the Taxpayer's objection to the failure to fully recognize the purchases for the fourth quarter of 2019. However, the Department found that the defendant did not make any adjustments to the purchases in question. Additionally, the dispute involves the "fine for error in the tax return," where the Taxpayer challenges the imposition of this fine following the final tax assessment notice for the fourth quarter of 2019. Upon review, the Department found that the first item led to supporting the defendant's actions, as the fine resulted from the defendant's adjustments to the Taxpayer's return. Therefore, the Department ruled to dismiss the Taxpayer's case.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Paragraph (1) of Article (27) and Paragraph (1) of Article (42) of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH.
- Paragraph (1) of Article (48) of the Common Agreement for Value Added Tax of the Gulf Cooperation Council (GCC), November 2016,
- Paragraph (8) of Article (49) and Paragraph (1) of Article (59) of the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Decision No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD

Facts:

The facts of this case are summarized as follows: (...), holding National ID No. (...), as the owner of (... Establishment), registered under Commercial Registration No. (...), submitted a statement of claim objecting to the defendant's decision regarding the final reassessment for the fourth quarter of 2019 and the fines resulting from the reassessment. The plaintiff requests the cancellation of the defendant's decision and the annulment of the imposed fines.
Having presented the statement of claims to the Defendant, it responded as follows: First: On Merits: 1. Regarding the Non-Modification of the Purchases Item for the Disputed Tax Period: The Authority reassessed the tax return for the disputed tax period in accordance with Article (26) of the VAT Law, which states: "The Authority has the right to conduct a tax assessment for the taxable person, regardless of the tax return submitted by them..." Additionally, Paragraph (1) of

Article (64) of the Implementing Regulations of the VAT Law provides: "The Authority may issue an assessment of the VAT obligations of a taxable person for one or more tax periods and must notify the taxable person of such assessment upon its issuance." ZATCA approved the purchases subject to the 5% VAT rate based on the tax return submitted by the plaintiff, relying on the purchases report and business activity records. Thus, ZATCA did not make any modifications to the item in dispute. Since there was no decision issued by ZATCA regarding the purchases item, there is no basis for an objection. 2. Regarding the fine for Error in Tax Return and Late Payment: As a result of the audit and reassessment process for the disputed tax period, the fine for an error in the tax return was imposed in accordance with Article (42), Paragraph (1) of the VAT Law, which states: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (5%) of the value of the difference between the calculated Tax and the Tax due." Additionally, a late payment fine was imposed for the disputed tax period, in accordance with Article (43) of the VAT Law, which states: "Whoever does not pay the tax due within the period specified by the Regulations shall be fined an amount equaling (5%) of the value of unpaid tax, for each month or fraction of month for which the tax was not paid." Defendant representative concluded his Reply with requesting dismissal of the case. End of Answer.

On Sunday, February 27, 2022, the session was held in accordance with remote litigation procedures. The defendant was present, while the plaintiff failed to appear despite being duly notified of the session date and its virtual format. The session was attended by the defendant's representative, (...), holding National ID No. (...), acting as a representative of the Zakat, Tax, and Customs Authority, pursuant to Authorization Letter No. (...), dated ../../... AH, issued by the Deputy Governor for Legal Affairs. When confronted with this matter, the defendant's representative requested to proceed with the case and issue a decision. Therefore, the Department decided to adjourn the session for deliberation and issue a decision.

Grounds

After reviewing the case documents and conducting a thorough examination, and based on the Value Added Tax (VAT) Law, issued by Royal Decree No. (M/113) dated 02/11/1438 AH, and its amendments, as well as the Implementing Regulations of the VAT Law, issued by the General Authority of Zakat and Tax Board of Directors under Resolution No. (3839) dated 14/12/1438 AH, and its amendments, and in accordance with the Rules of Procedure for Tax Violation and Dispute Resolution Committees, issued by Royal Order No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

Regarding the Formal Aspects of the Case: Since the plaintiff's objective is to annul the defendant's decision regarding the final reassessment for the fourth quarter of 2019, along with the fines resulting from the reassessment, based on the VAT Law and its Implementing Regulations, and since this dispute is tax-related, it falls within the jurisdiction of the Tax Violations and Disputes Resolution Committee, in accordance with Royal Decree No. (M/113) dated 02/11/1438 AH. Additionally, since the claim was filed by a party with legal standing and within the legally prescribed timeframe, the Department determines that the claim is admissible in form.

On merits, Upon reviewing the case documents and the responses of both parties, after granting them sufficient time to present their arguments and evidence: Locally Taxable Purchases at the Standard Rate: The dispute arises from the plaintiff's objection to the final reassessment issued by the defendant regarding VAT Assessment No. (...) for the fourth quarter of 2019. Paragraph (1) of Article (48) of the Common VAT Agreement for the Gulf Cooperation Council (GCC) States stipulates: "For the purpose of exercising the right to deduction, the taxable person must possess the following documents:" A. The tax invoice obtained in accordance with the provisions of this

Agreement. (b) Customs documents proving that the person is the importer of goods in accordance with the provisions of the Common Customs Law. Additionally, Paragraph (8) of Article (49) of the Implementing Regulations of the VAT Law states: "A deduction of Input Tax may be made by a Taxable Person in a Tax Period subsequent to that Tax Period including the date of Supply, provided that the Taxable Person remains eligible to make such deduction under the other provisions of these Regulations. Input tax may not be deducted in any period after five years from the calendar year in which the supply occurred."

After reviewing the entire case file and the arguments presented, it is evident that the dispute arises from the plaintiff's objection to the failure to fully recognize purchases for the fourth quarter of 2019. Upon reviewing the defendant's response in its defense memorandum, the defendant stated that the purchases item in dispute was fully approved, and that no modifications were made to this item. Consequently, the defendant argued that there is no basis for the objection. Upon examining the final assessment notice submitted by the plaintiff (No. (...)), it was confirmed that the defendant did not make any modifications to the purchases item in dispute. The declared value of the purchases item, as disclosed by the plaintiff, was (54,700 SAR). Given that no action was taken by the defendant that warrants an appeal, the plaintiff's claim must be dismissed.

Late Payment Fine: The dispute between the plaintiff and the defendant revolves around the imposition of a late payment fine, which resulted from the final assessment notice for the fourth quarter of 2019. The plaintiff requests the cancellation of this fine. Paragraph (1) of Article (27) of the VAT Law, related to tax payment, states: "The Regulations shall determine the time periods, terms and conditions for the payment of Net Tax due by a Taxable Person." Paragraph (1) of Article (59) of the Implementing Regulations of VAT Law, related to tax payment, states: "Payment of Tax due by a Taxable Person in respect of a Tax Period must be made at the latest by the last day of the month following the end of that Tax Period"" Additionally, Article (43) of the VAT Law states: "Whoever does not pay the tax due within the period specified by the Regulations shall be fined an amount equaling (5%) of the value of unpaid tax, for each month or fraction of month for which the tax was not paid."

Since the first item resulted in upholding the defendant's actions, in accordance with the findings stated above, the Department deems the defendant's action valid under the provisions of Article (43) of the VAT Law.

fine for Error in the Tax Return: The dispute between the plaintiff and the defendant concerns the imposition of a fine for error in the tax return, which resulted from the final assessment notice for the fourth quarter of 2019. The plaintiff requests the cancellation of this fine, while the defendant asserts that it resulted from the submission of an incorrect tax return. Paragraph (1) of Article (42) of the VAT Law states: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due"

After reviewing the entire case file and the arguments presented, it is evident that the fine for error in the tax return resulted from the defendant's adjustment of the plaintiff's tax return for the fourth quarter of 2019. Since the first item resulted in upholding the defendant's actions, and the fine for error in the tax return was a direct result of this adjustment, the same ruling applies to this matter. In accordance with Paragraph (1) of Article (42) of the VAT Law, the Department deems the defendant's action valid.

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

Decision:

To dismiss Plaintiff case.

This decision was issued in the presence of both parties. The Department has set a period of thirty (30) days for receiving a copy of the decision, with the option to extend the deadline for an additional thirty (30) days as deemed necessary. The parties to the case may file an appeal within thirty (30) days from the day following the specified date for receiving the decision. If no appeal is submitted within the given period, the decision becomes final and enforceable upon the expiration of the deadline.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Key words:
Value Added Tax – VAT on Real Estate Supply – Real Estate Transaction Tax

Abstract

The plaintiff requests that the defendant be obligated to pay the VAT resulting from the supply of real estate. The dispute revolves around the plaintiff's claim to enforce the defendant's payment of VAT on the real estate supply. Upon review, the Department found that the plaintiff submitted a tax invoice as evidence of their right to impose the tax on the defendant. Conclusion: The defendant is obligated to pay an amount of 42,500 SAR.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Common VAT Agreement of GCC states of November 2016
- the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Resolution No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD

Facts:

Case facts are summarized as follows: (...), holding National ID No. (...), as the authorized representative of the plaintiff (...), National ID No. (...), submitted a statement of claim, which includes the following: The plaintiff owns a property located in (...) neighborhood in Dammam, covered by title deed No. (...), issued by the Notary Public in Dammam on 16/01/1441 AH. The plaintiff sold the property mentioned above and transferred ownership to (...) Company, Commercial Registration No. (...) (the defendant) for a total price of 930,000 SAR, excluding the real estate transaction tax. The full property price was received, but not the tax amount. The defendant, a company engaged in real estate purchasing and supporting mortgage programs provided by (...) Bank to its clients, informed the plaintiff that the buyer of the property was exempt from real estate transaction tax and that the defendant would provide a tax exemption certificate from the Ministry of Housing. The plaintiff was expected to submit this certificate along with the tax return as per the applicable procedure. However, the defendant failed to fulfill this obligation and did not provide the plaintiff with any certificate or document. As a result, the plaintiff was forced to file the tax return and pay the tax amount personally from his own funds. The tax payment was made through Invoice No. (...) for an amount of 42,500 SAR. The plaintiff notified the defendant of the payment and informed them that they were required to reimburse him for the tax amount paid. However, the defendant continued to refuse and delay payment. The plaintiff has no involvement in any agreements or exemptions between the defendant and the final

beneficiary of the property. The law explicitly requires the buyer (the defendant) to pay the real estate transaction tax. The plaintiff has suffered harm due to the defendant's refusal and delay in making the payment. The plaintiff respectfully requests that the committee order the defendant to pay the following amounts: 1. 42,500 SAR as reimbursement for the real estate transaction tax paid to the Zakat, Tax, and Customs Authority. 2.15,000 SAR as compensation for the defendant's delay, forcing the plaintiff to file complaints, bear the burden of paying the tax, and withholding the due amount without any legal, regulatory, or contractual justification.

Defendant then submitted a Reply including the following: "1/The bank purchased a residential property from the plaintiff for the purpose of financing it for the client (...) under an Ijara (lease) agreement. 2/ The plaintiff claims that the property is subject to real estate transaction tax, whereas the property is actually subject to VAT, according to the date of transfer of ownership as indicated in the schedule. 3/ The plaintiff is registered for VAT purposes, as per the registration certificate issued on September 10, 2019, with the effective registration date being October 1, 2019. • The plaintiff is demanding that the bank pay the VAT amount related to the First Home Tax Exemption Certificate, which totals 42,500 SAR. Defenses: *The bank is willing to pay the VAT amount in dispute to the plaintiff, subject to the following conditions: A. Correction of the Effective VAT Registration Date

The plaintiff must correct the effective date of their VAT registration by consulting the Zakat, Tax, and Customs Authority (ZATCA) to ensure that it is effective before the property was supplied to the bank (i.e., the date of ownership transfer). This condition is essential for the plaintiff (taxable person) to have the right to collect VAT from the client (the bank). This requirement is explicitly stated on the VAT registration certificate, where ZATCA includes the following note at the bottom of each certificate: "As a VAT-registered Taxpayer, you are not allowed to charge VAT to your clients before the effective date of VAT registration." If this condition is not met, ZATCA will enforce the applicable fines. B. Submission of a Compliant VAT Invoice. The plaintiff must provide the bank with a fully compliant VAT invoice that meets all regulatory requirements. This condition ensures that the bank adheres to VAT regulations in Saudi Arabia for the purpose of claiming input tax deductions. One of the requirements for deducting input VAT is to obtain a proper VAT invoice that meets all legal conditions. Requests: Since this is the case, the plaintiff is requested to take the necessary actions to facilitate the payment of the VAT amount or for the Department to rule for the dismissal of the claim. "

On Tuesday, January 30, 2022, the session was held in accordance with remote litigation procedures. Upon calling the parties to the case, the following individuals were present: (...), National ID No. (...), as the plaintiff's representative, under Power of Attorney No. (...). (...), National ID No. (...), as the defendant's representative, under Power of Attorney No. (...). The plaintiff's representative was asked about the claim and confirmed adherence to the statement submitted to the General Secretariat of Tax Committees. The defendant's representative was asked to respond and confirmed adherence to the contents of the defense memorandum, adding that if the plaintiff provides proof of an effective VAT registration date prior to the property transfer date and submits a fully compliant VAT invoice, the company is willing to process the payment. When this was presented to the plaintiff's representative, he stated that he would consult with his client to provide the necessary documentation. Accordingly, the Department decided to adjourn the session to 27/02/2022 at 1:00 PM.

On Sunday, February 27, 2022, the session was held in accordance with remote litigation procedures. Upon calling the parties to the case, the following individuals were present: (...), National ID No. (...), as the plaintiff's representative, under Power of Attorney No. (...). (...), National ID No. (...), as the defendant's representative, under Power of Attorney No. (...). The plaintiff's representative submitted a VAT registration notice reflecting an updated effective registration date, but did not provide a VAT invoice. When confronted with this, the plaintiff's representative requested additional time to consult with his client. Accordingly, the Department decided to adjourn the session to 15/03/2022 at 12:00 PM.

On Tuesday, March 15, 2022, the session was held in accordance with remote litigation procedures. Upon calling the parties to the case, the following individuals were present: (...), National ID No. (...), as the plaintiff's representative, under Power of Attorney No. (...). (...), National ID No. (...), as the defendant's representative, under Power of Attorney No. (...). The plaintiff's representative stated that he had submitted all the requested documents and had nothing further to add. Upon presenting this to the defendant's representative, she requested additional time to consult with her client and provide a response. Therefore, the Department decided that parties to the Case should temporarily leave the virtual room for deliberation and adjudication.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form, Since the plaintiff's objective in this case is to compel the defendant to pay the VAT resulting from the supply of real estate, and as this dispute falls under tax-related matters, it falls within the jurisdiction of the Tax Violations and Disputes Resolution Committee, in accordance with Royal Order No. (26040) dated 21/04/1441 AH. Additionally, since the claim was filed by a party with legal standing and within the legally prescribed timeframe, the Department determines that the claim is admissible in form.

On Merits: Upon reviewing the case documents and the responses of both parties, it is evident that the dispute centers on the plaintiff's demand to compel the defendant to pay the VAT resulting from the supply of real estate. The defendant had already recovered the VAT exemption amount under the First Home Tax Exemption Certificate, which was granted for the sale of the land to Mr. (...) (the final consumer), as stated in the property co-ownership agreement issued by the defendant. The property supply transaction is subject to VAT, not Real Estate Transaction Tax (RETT), as the latter came into effect on 14/02/1442 AH (04/10/2020). However, the sale of the property between the parties occurred on 16/01/1441 AH (15/09/2019), before RETT was implemented. Upon examining the plaintiff's statement of claim, the Department found that the plaintiff sold the property to the defendant, who then resold it to the final consumer. Additionally, the plaintiff was registered for VAT under Tax Identification Number (...), with a registration issuance date of (10/09/2019) and an effective registration date of (01/10/2019). Given that the plaintiff's VAT registration date predates the sale transaction, the plaintiff was required to impose VAT on the defendant for the sale. The defendant's representative stated that if the plaintiff provided proof of an effective VAT registration date prior to the property supply date and submitted a VAT-compliant invoice, the company would process the payment. Since the plaintiff fulfilled these requirements, the Department determines that the plaintiff has the right to impose VAT on the defendant.

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

Decision:

The defendant, Company (...), Commercial Registration No. (...), is ordered to pay the plaintiff, (...), National ID No. (...), an amount of 42,500 SAR (Forty-Two Thousand Five Hundred SAR).

The decision was made in the presence of both parties, and the Department has allocated thirty days for receipt of decision copy. The Department may extend this period by an additional thirty

days if necessary. According to Article (42) of the Rules of Tax Dispute and Violation Committee Procedures, this decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Committee for Determination of Tax Violations and Disputes The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-587
Case No. V-51614-2021

Key words:
Value Added Tax – Real Estate Supply – Tax Exemption

Abstract

The plaintiff requests that the defendant be obligated to pay the VAT resulting from the supply of real estate, amounting to 42,500 SAR. The dispute arises from the plaintiff's demand for the defendant to pay the VAT due on the real estate supply. Upon review, the Department found that the defendant did not provide any arguments sufficient to dismiss the plaintiff's claim, and the plaintiff has the right to impose VAT on the supply. Conclusion: The defendant is ordered to pay the plaintiff an amount of 42,500 SAR (Forty-Two Thousand Five Hundred SAR).

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Common VAT Agreement of GCC states of November 2016
- the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Resolution No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD

Facts:

Case facts are summarized as follows: (...), acting in his personal capacity, National ID No. (...), filed a statement of claim demanding that the defendant, Bank (...), Commercial Registration No. (...), be obligated to pay the VAT resulting from the supply of real estate, amounting to 42,500 SAR.

The defendant submitted a defense memorandum, stating the following: "With reference to case No. 7-2021-51614, filed by (...) against Bank (...), we present the bank's response as follows: The plaintiff claims that he objects to the bank registering the tax exemption certificate in its name, despite the fact that he was the seller. He is demanding reimbursement of the VAT amount that he paid. In response to this claim, upon reviewing the case and its attachments, we find that the plaintiff attached a sale contract, numbered (...), identifying the owner as (...), National ID No. (...), and the buyer as (...), National ID No. (...) (Attachment No. 1). Since the contract was concluded between the plaintiff as the owner and the buyer (...), it is evident that the bank was not a party to the contract. The plaintiff himself has provided evidence in his claim that the bank has no legal standing in this contract. Accordingly, the claim has been filed against a party with no legal standing. A valid claim must be filed by a party with legal standing against a party with legal standing. The objection based on lack of standing is a valid defense at any stage of the proceedings, and the Department has ZATCA to rule on it at its discretion, in accordance with Article 76 of

the Law of Civil Procedures, which states: "An objection based on lack of jurisdiction due to the type of claim or lack of legal standing may be raised at any time during the proceedings, and the Department may rule on it of its own accord." For all the aforementioned reasons, (...) Bank requests the dismissal of the claim due to the lack of legal standing." "

On Sunday, November 7, 2021, the session was held in accordance with remote litigation procedures. Upon calling the parties to the case, the plaintiff did not appear, while (...), holding National ID No. (...), attended as the defendant's representative under Power of Attorney No. (...). The defendant's representative was asked to respond to the claim and confirmed adherence to the defense memorandum. When asked about the amount of VAT recovered by the defendant using the First Home Tax Exemption Certificate for the financing provided to their client (...), he stated that the bank had utilized the certificate and recovered an amount of 42,500 SAR from the Ministry of Housing. He also requested additional time to submit a supplemental memorandum. Accordingly, the Department decided to adjourn the session to 16/11/2021 at 12:00 PM.

On Tuesday, November 16, 2021, the session was held in accordance with remote litigation procedures. The following party was present: (...), holding National ID No. (...), as the defendant's representative, under Power of Attorney No. (...). The plaintiff or their representative did not appear, despite being duly notified of the session date in accordance with legal procedures. Since the plaintiff abandoned the case, the Department unanimously decided to strike the claim from the session schedule, in accordance with Article (20) of the Rules of Procedure for Tax Violations and Dispute Resolution Committees.

On 22/11/2021, the plaintiff submitted a request to resume the proceedings.

On Monday, February 14, 2022, the session was held in accordance with remote litigation procedures. Upon calling the parties to the case, the following individuals were present: The plaintiff (...), appearing in person, holding National ID No. (...). (...), holding National ID No. (...), as the defendant's representative, under Power of Attorney No. (...).

When asked about his claim, the plaintiff confirmed adherence to the statement submitted to the General Secretariat of Tax Committees. When asked for a response, the defendant's representative confirmed adherence to the contents of the defense memorandum. When the defendant's representative was asked about the statement in their defense memorandum, which claims that the sale contract was concluded between the plaintiff and the bank's client (...), and therefore the bank has no legal standing in this case, while at the same time the bank acknowledges that it sold the same property to the same client and benefited from the First Home Tax Exemption Certificate, the Department requested a response regarding this contradiction. Accordingly, the Department decided to adjourn the hearing to 15/03/2022 at 12:00 PM, with the following instructions: The defendant must submit a response by 01/03/2022 and the plaintiff must review the defendant's response and submit their reply by 10/03/2022.

The plaintiff submitted a reply memorandum, which included the following: "There is no contradiction in the bank's response. Rather, the bank responded to the claim by asserting a lack of legal standing regarding the contract submitted by the plaintiff, as the bank was not a party to that contract. The bank also provided a substantive response when questioned by the Department about its use of the tax exemption certificate, but not based on the contract submitted by the plaintiff. The real question should be directed to the plaintiff: How can you claim that you sold the property to the bank while presenting a contract concluded with another person? To summarize before elaborating further, our response is as follows: 1. Saudi Bank's response contains no contradictions whatsoever. In the first defense memorandum, the bank responded to the plaintiff's claim and the sales contract attached between the plaintiff and Mr. (...). This contract has no connection to the bank, nor is the bank a party to it, and therefore, the plaintiff cannot use it as evidence against the bank. Regarding this transaction, the bank has no legal standing, as the contract was between the plaintiff and Mr. (...)." 2. On 05/04/1443 AH (07/11/2021), the first hearing was held, during which the Department inquired whether the bank had benefited from the First Home Tax Exemption Certificate concerning the client (...). The response given was that the

benefit was based on the fact that the bank was the seller to Mr. (...). 3. Regarding the Contract Submitted by the Plaintiff, which was concluded with Mr. (...), cannot be used as evidence against the bank, as the bank was not a party to it. It is established that the plaintiff sold the property to the bank, and then Mr. (...) purchased it from the bank. Therefore, the contract presented by the plaintiff holds no evidentiary value against the bank. Accordingly, there is no contradiction. The benefit from the tax exemption certificate was based on the bank's sale of the property to Mr. (...), and the bank has provided documents proving the sale. Below is the bank's detailed response: First: In form: The plaintiff filed a claim against the bank, attaching a sale contract No. (...), with the following details: Owner: (...) National ID No.: (...) Buyer: (...) National ID No.: (...) Attachment No. (1) Based on this contract, the bank has no legal standing or connection to it. This serves as the bank's initial response to the claim. Second: On merits: On 05/04/1443 AH (07/11/2021), the Department inquired whether the bank had benefited from the tax exemption certificate, and the response was that the benefit was based on the fact that the bank sold the property to Mr. (...) and mortgaged it in favor of the bank, in accordance with the property deed. As for the bank's purchase from the plaintiff, it was not made under the contract submitted by the plaintiff, in which the bank was not a party. Therefore, the bank objected to the contract provided by the plaintiff on the grounds of lack of legal standing. The bank clarified that its benefit from the tax exemption certificate was based on other contracts. However, the legal positions in those contracts indicate that the plaintiff sold the property to the bank at the declared price, and the bank then sold it to the client, Mr. (...). Thus, the benefit from the tax exemption certificate was not based on the relationship between the bank and the plaintiff, but rather on the relationship between the bank as the seller and its client as the buyer. Accordingly, the supply, the tax exemption certificate, the benefit, and the invoice were all processed on this basis. Case Facts: On 04/04/1440 AH (11/12/2018), the plaintiff sold a property to the bank's client (...). The sale offer, including the offer and acceptance, was attached, indicating a sale price of 850,000 SAR. Attachment No. (1) On 25/04/1440 AH (01/01/2019), Bank (...) sold the property, covered under title deed No. (...), and transferred ownership to its client (...). The property was then mortgaged to the bank. Attachment No. (2) On 06/01/2019, the bank remitted the VAT amount to the tax authority, as it was the seller responsible for the VAT obligation. Attachment No. (3) On 30/05/2021, the plaintiff filed a claim, demanding reimbursement of VAT in the amount of 42,500 SAR and attached a VAT registration certificate dated 09/01/2019. The plaintiff attached a payment invoice issued by the General Authority of Zakat and Tax (GAZT) on 17/11/2020, nearly two years after the sale transaction, which indicates the amounts due from the plaintiff. This demonstrates that the plaintiff was not a taxable person at the time of the sale, did not issue a tax invoice, and did not remit VAT at that time. Therefore, the plaintiff is not entitled to claim VAT, as the law does not permit non-registered and non-taxable persons to issue VAT invoices. At the time of the sale, the plaintiff was not a VAT-registered Taxpayer and did not issue a tax invoice within the legally prescribed period. According to the settled principle, the monetary consideration must be determined in accordance with Article (1) of the GCC VAT Agreement, which states: "The consideration includes any amount received or to be received by the taxable supplier from the customer or any third party in exchange for the supply of goods or services, including VAT." The plaintiff claims that the advertised price did not include VAT, which contradicts the presumption of innocence principle, the Common GCC VAT Agreement, and the VAT Law. According to Article (1) and Article (2/25) of the GCC VAT Agreement: 2. Without prejudice to the obligations set forth in this Agreement and local laws, the advertised price for goods and services in the local market must include VAT. Since the plaintiff's claim contradicts established legal principles and is inconsistent with the applicable regulations, in addition to the fact that the plaintiff was not a taxable person at the time of the sale, the plaintiff's assertions contradict the presumption of innocence principle. Furthermore, the plaintiff attached a VAT registration certificate issued after the date of the sale, which indicates that the plaintiff was not subject to VAT at the time of the transaction. Accordingly, the advertised price must be deemed inclusive of VAT.

Second: (...) Bank, in its capacity as the seller to the client (...), issued a VAT invoice on 09/01/2019, paid the tax, and later reclaimed it using the buyer's First Home VAT Exemption Certificate. Since (...) Bank was the seller in this transaction, it issued the VAT invoice and remitted the tax accordingly. Furthermore, the bank was subject to VAT in accordance with Article (2) of the Implementing Regulations of the VAT Law, which states: "For the purposes of applying the Law and these Regulations, a taxable person in the Kingdom of Saudi Arabia is a person who independently engages in an economic activity with the intention of generating income and who is registered for VAT purposes in the Kingdom or is considered liable for VAT registration in accordance with the Law and the Regulations." Additionally, Article (14) of the same regulations provides: "VAT shall be imposed on all taxable supplies of goods and services made by any taxable person in the Kingdom in the course of their economic activity." Since (...) Bank is subject to VAT under Article (2) and required to pay VAT under Article (14), it was obligated to remit the tax once a VAT invoice was issued, as per Article (40) of the GCC VAT Agreement. Based on the legal provisions cited above, (...) Saudi Bank acted in full compliance with the law when issuing the VAT invoice, in accordance with Articles (2) and (14) of the VAT Regulations and Article (40) of the GCC VAT Agreement. Accordingly, bank's actions were mandatory under the law, and no one can challenge them in any way and the plaintiff had no legal standing for VAT purposes at the time of the sale and was not a taxable person. Since the bank fulfilled its tax obligations, the plaintiff has no legal grounds to claim reimbursement from the bank.
If the plaintiff paid any VAT, he should seek reimbursement from the party that collected the tax from him. The plaintiff was not subject to VAT, and his claim contradicts Article (2/25) of the GCC VAT Agreement, as well as the established legal principle that advertised prices include VAT. Since the law is intended to be applied as written, it does not allow the Plaintiff to seek recourse against the bank, as the bank acted in full compliance with the law and the regulations. Furthermore, had the bank failed to comply, it would have been subject to fines under the law. Since it has been established that the plaintiff was neither a taxable person nor registered for VAT at the time of the sale, and did not issue a VAT invoice at that time, he has no legal basis to claim the VAT amount. Consequently, the advertised price must be considered inclusive of VAT. For all the above reasons, (...) bank requests the following: Dismissal of the claim for lack of legal or regulatory basis.
On Tuesday, March 15, 2022, the session was held in accordance with remote litigation procedures. Upon calling the parties to the case, the following individuals were present: The plaintiff (...), appearing in person, holding National ID No. (...). (...), holding National ID No. (...), as the defendant's representative, under Power of Attorney No. (...). When asked whether they had any additional statements, both parties confirmed that they had nothing further to add and relied on their previous submissions. Therefore, the Department ordered that parties to the Case temporarily leave the virtual room for deliberation and adjudication.

Grounds

After reviewing the case documents and conducting a thorough examination, and based on the Value Added Tax (VAT) Law, issued by Royal Decree No.
(M/113) dated 02/11/1438 AH, and its amendments, as well as the Implementing Regulations of the VAT Law,
issued by the General Authority of Zakat and Tax Board of Directors under Decision No. (3839) dated 14/12/1438 AH, and its amendments, and in accordance with the Rules of Procedure for Tax Violation and Dispute Resolution Committees, issued by Royal Order No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.
In form, since plaintiff's objective in this case is to compel the defendant to pay the Value Added Tax (VAT),

resulting from the supply of real estate, and as this dispute falls under tax-related matters, it falls within the jurisdiction of the Tax Violations and Disputes Resolution Committee, in accordance with Royal Order No. (26040) dated 21/04/1441 AH. Additionally, since the claim was filed by a party with legal standing and within the legally prescribed timeframe, the Department determines that the claim is admissible in form.

On Merits: Upon reviewing the case documents and the responses of both parties, it is evident that the dispute centers on the plaintiff's demand to compel the defendant to pay the VAT resulting from the supply of real estate. The Department has established that the plaintiff sold a property to the defendant, who then sold it to its client through a mortgage financing arrangement, as indicated in title deed No. (...), dated 25/04/1440 AH (01/01/2019). As evidence, the defendant benefited from the tax exemption certificate, which confirms that the real estate in dispute was supplied by the defendant. The bank did not present any valid arguments to dismiss the plaintiff's claim, whereas the plaintiff has the right to impose VAT on the supply. Furthermore, the plaintiff is registered for VAT under Tax Identification No. (...), with a registration date of 09/01/2019 and an effective date of 01/05/2018, as indicated in the attached certificate, which was valid at the time of the property transfer. Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department after deliberation unanimously decided to:

Decision:

The defendant, Bank (...) Commercial, Commercial Registration No. (...), is ordered to pay the plaintiff, (...), National ID No. (...), an amount of 42,500 SAR (Forty-Two Thousand Five Hundred SAR).

The decision was made in the presence of both parties, and the Department has allocated thirty days for receipt of decision copy. The Department may extend this period by an additional thirty days if necessary. According to Article (42) of the Rules of Tax Dispute and Violation Committee Procedures, this decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Key words:
Value-Added Tax – Late Registration fine – Acceptance of the Plaintiff's case

Abstract

The Taxpayer demands the cancellation of ZATCA's decision regarding the imposition of a late registration fine for Value-Added Tax in the amount of (10,000) SAR. The Department found that the plaintiff did not provide the Taxpayer's data upon which the registration and fine were based, making the decision unsupported and requiring its cancellation. Conclusion: Acceptance of the Taxpayer's claim and annulment of ZATCA's decision.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- Paragraph (1) of Article (6) and Paragraph (2) of Article (56) of the Implementing Regulations of VAT Law, issued pursuant to the decision of the Board of Directors of the former General Authority of Zakat and Tax (GAZT), No. (3839), dated 14 Dhul-Hijjah 1438 AH, corresponding to November 14, 2016.

Facts:

The facts of this case are summarized as follows: (...) holding National ID No. (...), as the owner of the establishment (...), with Commercial Registration No. (...), filed a statement of claim objecting to the decision of the defendant, the Zakat, Tax, and Customs Authority, regarding the imposition of a late registration fine for Value-Added Tax in the amount of (10,000) SAR, requesting the cancellation of the defendant's decision.

Having presented the statement of claims to the Defendant, it responded as follows: Article 3 of the Implementing Regulations of the Value Added Tax Law stipulates that "For registration purposes, every Resident Person in the Kingdom who is not registered by the Authority must at the end of each month calculate the value of his Supplies made in the Kingdom within the twelve months then ended, in accordance with the requirements set out in the Agreement. In cases where this value exceeds the Mandatory Registration Threshold detailed in the Agreement, the Person must apply to the Authority to register within thirty (30) days of the end of that month pursuant to Article eight of these Regulations". Moreover, Article 6 of the Implementing Regulations of the Value Added Tax Law provides that "Where the Person has failed to make an application to the Authority as prescribed in these Regulations, the Authority may register such Person without submitting any application and such registration shall take effect from the relevant date prescribed under Articles three and four of these Regulations". Article 56 of the Implementing Regulations

of the Value Added Tax Law also authorized ZATCA to have access directly and on an ongoing basis to the information related to the tax that is kept by a third party. Having referred to the Plaintiff's information with the Saudi Central Bank, 3. Accordingly, the imposition of a late registration fine is legally sound based on Article 41 of the Value Added Tax Law, which stipulates that "Any person who fails to apply for registration within the periods specified in the Regulations shall be subject to a fine of 10,000 SAR." Based on the above, ZATCA pleads that the case be dismissed and that its decision be confirmed, while reserving its right to submit further responses and clarifications before closing the pleadings.

On Monday, 21/03/2022 AD, a session was held in accordance with the Remote Litigation Procedures. The Defendant was present, while the Plaintiff was not, despite being notified of the date and manner of conducting the session. The Defendant's Representative, ... holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated …/10/1443 AH issued by the Deputy Governor for Legal Affairs. Having presented the case to him, he requested that the Department proceed with the case and issue a ruling. After reviewing the case and the documents submitted, and since the case was found to be ripe for adjudication and having terminated the participation of the attendees for deliberation pursuant to the law and its implementing regulations, the Department decided to close the pleadings and deliberations Decision.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form, since the plaintiff seeks through her case to annul the defendant's decision regarding the imposition of a late registration fine for Value-Added Tax, and considering that this dispute falls within the category of tax disputes, it is deemed to be within the jurisdiction of the Tax Violations and Disputes Resolution Committee, in accordance with Royal Order No. (26040) dated 21/04/1441 AH. Furthermore, as the case was filed by a party with legal standing and within the prescribed statutory period, the Department finds it appropriate to accept the case procedurally.

On Merits:

Upon examining the case documents and the responses of both parties, the Department finds that the dispute revolves around the plaintiff's demand for the cancellation of the late registration fine for Value-Added Tax. The defendant justified the plaintiff's registration based on his data held by the Saudi Central Bank, claiming that it exceeded the mandatory registration threshold. According to Paragraph (1) of Article (6) of the Implementing Regulations, ZATCA registered the plaintiff based on information obtained from a third party, as per Paragraph (2) of Article (56) of the Implementing Regulations. However, the defendant did not provide the plaintiff's data on which the registration and fine were based, rendering its decision unsupported and necessitating its annulment.

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

Decision:

Acceptance of the plaintiff's case and annulment of the defendant's decision in dispute.

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 which may be extended for an additional period as the Department deems appropriate. 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 The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-689
Case No. V-68627-2021

Key words:
Value-Added Tax – Field Inspection fine – Failure to Collect VAT

Abstract

The Taxpayer seeks the annulment of ZATCA's decision regarding the field inspection fine due to the failure to collect Value-Added Tax in the amount of (10,000) SAR. The dispute revolves around the plaintiff's request for the cancellation of the field inspection fine. Upon review, the Department found that the case file lacked any evidence indicating prior fines or a previous commitment undertaken by the plaintiff. Consequently, the Department concludes that the plaintiff benefits from this decision. As a result, the plaintiff's case is accepted, and the fine is annulled.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article (48) of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Common VAT Agreement of GCC states of November 2016
- the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Resolution No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD

Facts:

Facts of the case are summarized that ....., holder of National ID number (.....), in his capacity as the Owner of ..... Establishment, C.R. No..... filed a statement of claims that included an objection to the Defendant's decision to impose the field detection fine No. ..... on 07/07/2021, due to the failure to collect Value-Added Tax in the amount of 10,000 SAR, the plaintiff requests the cancellation of the fine.

Having presented the statement of claims to the Defendant, it responded as follows: Upon presenting the statement of claim to the defendant, the defendant responded as follows: On 16/06/2021, representatives of ZATCA conducted an on-site inspection at the plaintiff's location and examined the simplified invoices issued by the plaintiff during the field campaign to ensure compliance with the Value-Added Tax (VAT) Law and its Implementing Regulations. After the inspection, it was found that the invoices did not meet the requirements for a simplified invoice, as stated in Article 2 of the VAT Law, and violated the conditions outlined in Paragraph 8 of Article 53 of the Implementing Regulations. Specifically, the invoices did not include the VAT amount payable at the statutory rate. As a result, ZATCA imposed a fine of 10,000 SAR on the plaintiff, based on Paragraph 3 of Article 45 of the VAT Law, which states: "A fine not exceeding 50,000 SAR shall be imposed on anyone who: 3. violates any other provision of the Law or the

Regulations". The Defendant's representative concluded his Reply with a motion to dismiss the case."

On Tuesday, 22/03/2022, the session was held remotely via virtual litigation procedures. The defendant attended the session, while the plaintiff did not appear despite being notified of the session date and its mode of conduct. The defendant's representative, (...), participated in the session. holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated 23/12/1442 AH issued by ZATCA's Deputy Governor for Legal Affairs. Having asked the Defendant's representative about his reply, he requested that the Department proceed with the case and deliver its decision. Accordingly, the Department decided to adjourn the session for delivering its decision.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form:

Since the plaintiff seeks through his case to annul the defendant's decision regarding the imposition of two field inspection fines due to the failure to collect Value-Added Tax in the amount of 10,000 SAR, based on the VAT Law and its Implementing Regulations, and considering that this dispute falls within the category of tax disputes, it is deemed to be within the jurisdiction of the Tax Violations and Disputes Resolution Committee, in accordance with Royal Order No. (26040) dated 21/04/1441 AH. Furthermore, as the case was filed by a party with legal standing and within the prescribed statutory period, the Department finds it appropriate to accept the case procedurally.

On Merits:

Upon examining the case documents and the responses of both parties, the Department finds that the dispute revolves around the plaintiff's demand for the cancellation of the field inspection fine. It is established that the Board of Directors of the Zakat, Tax, and Customs Authority issued a decision effective 30/01/2022, introducing a reclassification of violations and corresponding fines. Under this new framework, field inspection and e-invoicing violations are subject to a gradual fine system, whereby taxpayers are first issued a warning upon their initial violation before facing escalating fines in case of recurrence. Since the Board of Directors is authorized by law to enact such amendments, and as the revised classification constitutes a more favorable legal framework for the violator, the Department recognizes the new provisions as applicable in this case. The decision aligns with the objectives of the VAT Law, particularly Article 48, which mandates proportionality between violations and fines and requires gradual enforcement of sanctions, starting with a warning before imposing any fines. Although laws are generally not applied retroactively, an exception exists for laws that are more favorable to the accused, as in this case, where no final, enforceable judgment has been issued. Moreover, the case file contains no evidence of any prior fines or formal commitments imposed on the plaintiff. Consequently, the Department concludes that the plaintiff benefits from this new decision, and his case should be treated as a formal warning rather than an immediate fine. If the plaintiff commits the same violation within the legally specified period, he will be subject to the next level of fines in the escalation system.

Based on the foregoing, and in accordance with the Common Agreement, the VAT Law and Implementing Regulations thereof, as well Tax Violations and Disputes Committee Procedures, the Department, after deliberation, unanimously decides:

Decision:

Accept the Plaintiff's case and cancel the fine for the grounds stated.

This decision was issued in the presence of both parties. The Department has set a period of thirty (30) days for the parties to receive a copy of the decision. The Department may extend this period for an additional thirty (30) days at its discretion. Either party has the right to appeal the decision within thirty (30) days from the day following the specified date for receiving the decision. If no appeal is filed within this period, the decision shall become final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-750
Case No. V-64010-2021

Key words:

Value-Added Tax – Field Inspection fine – Acceptance of Plaintiff's case – fine Annulment

Abstract

The Taxpayer seeks the annulment of ZATCA's decision regarding the field inspection fine due to the failure to collect Value-Added Tax in the amount of 10,000 SAR. The dispute revolves around the Taxpayer's request for the cancellation of the field inspection fine. Upon review, the Department found that the case file contained no evidence of any prior fines or formal commitments imposed on the Taxpayer. As a result, the Department concludes that the Taxpayer benefits from this decision and considers the current action as a formal warning. If the Taxpayer commits the same violation again within the legally specified period, he will be subject to the next level of fines according to the applicable regulations. Therefore, the Department ruled to accept the Taxpayer's case and cancel the fine.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article (48) of the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly)

Facts:

Facts of the case are summarized that ....., holder of National ID number (.....), as the company's manager under the Articles of Incorporation, the plaintiff filed a statement of claim objecting to the defendant's decision regarding Field Inspection fine No. (...) issued on 04/04/2021, due to the failure to collect Value-Added Tax in the amount of 10,000 SAR, and requests the cancellation of the fine.

Having presented the statement of claims to the Defendant, it responded as follows: On 25/03/2021, representatives of ZATCA conducted an on-site inspection at the plaintiff's location and examined the invoices issued by the plaintiff as part of a field campaign to verify compliance with the Value-Added Tax (VAT) Law and its Implementing Regulations. After the inspection, it was found that the invoices violated the provisions of Paragraph 2 of Article 2 of the VAT Law and the requirements for simplified invoices stated in Paragraph 8 of Article 53 of the Implementing Regulations. As a result, ZATCA imposed a fine of 10,000 SAR on the plaintiff, based on Paragraph 3 of Article 45 of the VAT Law, which states: "A fine not exceeding (50,000) fifty thousand SAR shall be imposed on anyone who: 3. violates any other provision of the Law

or the Regulations". The Defendant's representative concluded his Reply with a motion to dismiss the case."

On Sunday, 27/03/2022 AD, , a session was held in accordance with the Remote Litigation Procedures. For the Plaintiff appeared Mr....., holder of National ID No. (...), in his capacity as the attorney for the Plaintiff under POA No. ..... For the Defendant appeared Mr....., holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), on 23/12/1442 AH, as issued by the Deputy Governor for Legal Affairs, the plaintiff's representative was asked about the claim and responded in accordance with the statement of claim submitted to the General Secretariat of Tax Committees, affirming adherence to its contents. When the defendant's representative was asked about the response, he stated adherence to the contents of the reply memorandum. When asking both litigants if they had any other statements, they responded that they are satisfied with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation in preparation for delivering its decision.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form:

Since the plaintiff seeks through her case to annul the defendant's decision regarding the imposition of a field inspection fine due to the failure to collect Value-Added Tax in the amount of 10,000 SAR, based on the VAT Law and its Implementing Regulations, and considering that this dispute falls within the category of tax disputes, it is deemed to be within the jurisdiction of the Tax Violations and Disputes Resolution Committee, in accordance with Royal Order No. (26040) dated 21/04/1441 AH. Furthermore, as the case was filed by a party with legal standing and within the prescribed statutory period, the Department finds it appropriate to accept the case procedurally.

On Merits:

Upon reviewing the case documents and the responses of both parties, the Department finds that the dispute revolves around the plaintiff's request to annul the field inspection fine. It is established that the Board of Directors of the Zakat, Tax, and Customs Authority issued a decision effective 30/01/2022, introducing a reclassification of violations and corresponding fines. Under this new framework, field inspection and e-invoicing violations are subject to a gradual fine system, whereby taxpayers receive a warning upon their first violation before facing escalating fines in case of recurrence. Since the Board of Directors is legally authorized to enact such amendments, and as the revised classification constitutes a more favorable legal framework for the violator, the Department recognizes the new provisions as applicable in this case. This decision aligns with the objectives of the VAT Law, particularly Article 48, which mandates proportionality between violations and fines and requires gradual enforcement of sanctions, starting with a warning before imposing any fines. Although laws are generally not applied retroactively, an exception exists for laws that are more favorable to the accused, as in this case, where no final, enforceable judgment has been issued. Moreover, the case file contains no evidence of any prior fines or formal commitments imposed on the plaintiff. As a result, the Department concludes that the plaintiff benefits from this decision, and the current action should be treated as a formal warning. If the plaintiff commits the same violation again within the legally specified period, she will be subject to

the next level of fines as per the applicable escalation system, which the Department deems appropriate.
Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department after deliberation unanimously decided to:

Decision:

This decision was issued in the presence of both litigants, and Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-755
Case No. V-62180-2021

Key words:
Value Added Tax – Field Control Fine – Acceptance of the case – Annulment of the Decision

Abstract

The Taxpayer requests the annulment of ZATCA's decision regarding the field inspection fine due to the failure to specify the type of tax, amounting to 10,000 SAR. The dispute revolves around the Taxpayer's request for the cancellation of the field inspection fine. Upon review, the Department found that there was a significant gap between the date of the inspection and the issuance of the fine, suggesting either a lack of conviction by ZATCA in imposing the fine at the time or a delay in issuing it. Conclusion: Acceptance of the Taxpayer's claim and annulment of ZATCA's decision.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly)

Facts:

Facts of the case are summarized that ....., holder of National ID number (.....), On His Own Behalf, the plaintiff filed a statement of claim objecting to the defendant's decision regarding Field Inspection fine No. (...), issued on 25/07/2018, due to the failure to specify the type of tax, amounting to 10,000 SAR, and requests the cancellation of the fine.

Having presented the statement of claims to the Defendant, it responded as follows: On 25/07/2018, representatives of ZATCA conducted an on-site inspection at the plaintiff's location and examined the invoices issued by the plaintiff as part of a field campaign to verify compliance with the Value-Added Tax (VAT) Law and its Implementing Regulations. After the inspection, it was found that the invoices violated the requirements for simplified invoices stated in Paragraph (e) of Paragraph 8 of Article 53 of the Implementing Regulations of the VAT Law. As a result, ZATCA imposed a fine of 10,000 SAR on the plaintiff, based on Paragraph 3 of Article 45 of the VAT Law, which states: "A fine not exceeding (50,000) fifty thousand SAR shall be imposed on anyone who: 3. violates any other provision of the Law or the Regulations". The Defendant's representative concluded his Reply with a motion to dismiss the case."

On Monday, 28/03/2022, the session was held remotely via virtual litigation procedures, as both parties wished to proceed with the case The session was attended by (...), representing himself with

National ID No. (...), and the defendant's representative, (...) holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated 23/12/1442 AH issued by ZATCA's Deputy Governor for Legal Affairs. Having asked the Plaintiff regarding his case, he maintained the same claims included in his statement of claims filed with the General Secretariat of Tax Committees. Then having asked the Defendant for his reply, he referred to the Reply he has submitted. When asking both litigants if they had any other statements, they responded that they are satisfied with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation in preparation for delivering its decision.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In Form:

Since the plaintiff seeks through his case to annul the defendant's decision regarding the imposition of two field inspection fines due to the failure to specify the type of tax, amounting to 10,000 SAR, based on the VAT Law and its Implementing Regulations, and considering that this dispute falls within the category of tax disputes, it is deemed to be within the jurisdiction of the Tax Violations and Disputes Resolution Committee, in accordance with Royal Order No. (26040) dated 21/04/1441H. Furthermore, as the case was filed by a party with legal standing and within the prescribed statutory period, the Department finds it appropriate to accept the case procedurally.

On Merits:

Upon reviewing the case documents and the responses of both parties, the Department finds that the dispute revolves around the plaintiff's request to annul the field inspection fine. Referring to the date of the violation, it was found that the inspection took place on 25/07/2018, while the fine decision was not issued until nearly two years later. The significant gap between the date of the violation and the issuance of the fine suggests either a lack of conviction by ZATCA in imposing the fine at the time or negligence in issuing it. The purpose of imposing a fine is to immediately notify the violator of the offense or negligence committed. However, the long delay in issuing the fine deviates from the intended objective of administrative enforcement and deprives the Taxpayer of the opportunity to present evidence in a timely manner. Accordingly, the decision lacks justification for endorsement and must be annulled. Thus, the Department rules in favor of the plaintiff, accepting the case and revoking the contested decision and all its consequences.

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

Decision:

To accept the Plaintiff case and cancel the Defendant's decision subject of the case.

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 which may be extended for an additional period as the Department deems appropriate. 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 The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-762
Case No. V-70147-2021

Key words:
Value Added Tax – Property Supply – Burden of Proof Lies with the Plaintiff – Rejection of Plaintiff's case

Abstract

The plaintiff demands that the defendant be obligated to pay the Value-Added Tax (VAT) resulting from the sale of the property. The dispute revolves around the plaintiff's request to compel the defendant to pay the VAT associated with the property in question. Upon review, the Department found that the plaintiff did not provide sufficient evidence to support his claim. Accordingly, the Department dismisses Plaintiff's case.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Article (1) and Paragraph (Second) of Article (25) of the Common VAT Agreement for the Gulf Cooperation Council (GCC) States, November 2016.
- The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly)

Facts:

The facts of this case are summarized as follows: (...), holding National ID No. (...), acting as a representative on behalf of the plaintiff under Power of Attorney No. (...), filed a statement of claim, stating: A residential unit was sold under Title Deed No. (...), dated .../.../..., to (...), holding National ID No. (...), who became the legal owner of the property under Title Deed No. (...). The property was subsequently mortgaged in favor of (...) Bank. The citizen (...) is eligible for a First Home VAT Exemption Certificate issued under Certificate No. (...). The bank requested the citizen to provide a VAT exemption certificate, and the VAT amount was refunded to the bank, despite the bank not being the seller. Since I am registered with the Zakat and Tax Authority under Registration No. (...), which entitles me to claim VAT refunds as of 01/03/2019, I request the refund of the VAT amounting to 40,000 SAR from the bank. The defendant submitted a four-page memorandum, summarizing the following points: (...) Bank financed the property through an Islamic Murabaha financing structure. According to VAT regulations and guidelines issued by the General Authority of Zakat and Tax (GAZT), the following tax treatment applies to Murabaha financing transactions:
Since the original property owner (external supplier) sold the residential unit to (...) Bank (the financier) and transferred ownership to the bank, the responsibility for VAT calculation and collection lies with the original property owner (the first sale). The transfer of property ownership

from the original owner to the bank is considered a supply of goods and is subject to VAT. The original property owner failed to provide the bank with any tax-related documents in compliance with Article 53 of the Implementing Regulations of the VAT Law. Accordingly, the bank requests the committee to dismiss the plaintiff's claim.

On (...), dated .../.../..., a hearing was held via virtual litigation procedures. Upon calling the parties: (...), holding National ID No. (...), attended as the plaintiff's representative under Power of Attorney No. (...). (...), holding National ID No. (...), attended as the defendant's representative under Power of Attorney No. (...). When asked about the claim, the plaintiff's representative affirmed adherence to the statement of claim submitted to the General Secretariat of Tax Committees. When asked about the defense, the defendant's representative confirmed adherence to the memorandum of response. When both parties were asked if they had any additional submissions beyond those already provided in the statement of claim and response memorandum, they both declined. Therefore, the Department ordered that parties to the Case temporarily leave the virtual room for deliberation and adjudication.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form, since the plaintiff seeks through his case to compel the defendant to pay the Value-Added Tax (VAT) arising from the sale of the property, and considering that this dispute falls within the category of tax disputes, it is deemed to be within the jurisdiction of the Tax Violations and Disputes Resolution Committee, in accordance with Royal Order No. (26040) dated 21/04/1441 AH. Furthermore, as the case was filed by a party with legal standing and within the prescribed statutory period, the Department finds it appropriate to accept the case procedurally.

On Merits:

Upon examining the case documents and the responses of both parties, the Department finds that the dispute revolves around the plaintiff's request to compel the defendant to pay the VAT resulting from the sale of the property in question. It is undisputed that the responsibility for paying the VAT amount lies with the buyer, while the obligation to remit the tax falls on the seller. By default, the sale price is inclusive of VAT, as stipulated in the Common Agreement for Value-Added Tax of the Gulf Cooperation Council (GCC) States. The definition of "consideration" in Article (1) of the Common Agreement states: "Any amount received or to be received by the taxable supplier from the customer or a third party for the supply of goods or services, including VAT." Additionally, Paragraph (Second) of Article (25) of the same Agreement states: ".... The advertised price of goods and services in the local market must include Value-Added Tax (VAT). Since no legal provision exempts real estate from this requirement, and the plaintiff has not disputed the defendant's statements regarding the sale transaction, the following principles apply: "Muslims are bound by their conditions, except for a condition that prohibits what is lawful or permits what is unlawful."

Offer and acceptance, the contracting parties, and the subject matter (the sold property and its price) constitute the essential pillars of a valid sale contract. Since the price was agreed upon and determined, any additional financial burden imposed on the buyer without a legal basis undermines his contractual will and unjustly subjects him to a financial obligation. If sellers were allowed to claim that VAT was not included in the sale price and attempt to recover it from the buyer after the transaction, it would destabilize financial transactions for all sales. Any seller could claim that their price excluded VAT, leading to retrospective claims against buyers. This is precisely what

Article (1) of the Common Agreement for Value-Added Tax (GCC) and Paragraph (2) of Article (25) of the same agreement sought to clarify and prevent. By default, the advertised sale price is inclusive of VAT, and any party claiming otherwise bears the burden of proof. The presumption of financial clearance dictates that the burden of proof lies with the plaintiff (seller) and not the defendant (buyer). Since the case file contains no evidence that the plaintiff was registered for VAT at the time of sale or that he issued a tax invoice, the Department finds no legal grounds for the plaintiff's claim. As a result, the case is dismissed.

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

Decision:

To dismiss Plaintiff case.

This decision was issued in the presence of both parties. The Department has set a period of thirty (30) days for the parties to receive a copy of the decision. The Department may extend this period for an additional thirty (30) days at its discretion. The decision shall be final and enforceable in accordance with the provisions of Article 42 of the Rules Governing the Work of the Tax Violations and Disputes Resolution Committees.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Committee for Determination of Tax Violations and Disputes The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-785
Case No. V-57545-2021

Key words:
Value Added Tax – Property Supply – Burden of Proof Lies with the Plaintiff – Rejection of Plaintiff's case

Abstract

The plaintiff demands that the defendant be obligated to pay the Value-Added Tax (VAT) resulting from the sale of the property, amounting to 75,000 SAR. The dispute revolves around the plaintiff's request to compel the defendant to pay the VAT associated with the property in question. Upon review, the Department found that the plaintiff did not provide sufficient evidence to support his claim. Accordingly, the Department dismisses Plaintiff's case.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Article (1) and Paragraph (2) of Article (25) of the Common VAT Agreement for the Gulf Cooperation Council (GCC) States, November 2016.
- the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Resolution No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD

Facts:

The facts of this case are summed up so as (...), acting on his own behalf, holding National ID No. (...), filed a statement of claim demanding that the defendant, (...) Bank, with Commercial Registration No. (...), be obligated to pay the Value-Added Tax (VAT) resulting from the sale of the property, amounting to 75,000 SAR.

Despite being notified of the case filed by the plaintiff and the requirement to submit a response, the defendant failed to provide any reply memorandum.

On Monday, 11/04/2022 AD, the session was held in accordance with remote litigation procedures. Having called the parties to the Case, the Department found that the Plaintiff present (...), holder National ID number (...), attended the session in his own behalf as Plaintiff, and Mr....., holder of National ID No. (...), as the defendant's representative, under Power of Attorney No. (...).

When asked about his claim, the plaintiff confirmed adherence to the statement submitted to the General Secretariat of Tax Committees. When asked for a response, the defendant's representative confirmed adherence to the contents of the defense memorandum. When both parties were asked if they had any additional submissions beyond those already provided in the statement of claim and response memorandum, they both declined. Therefore, the Department decided that parties to the Case should temporarily leave the virtual room for deliberation and adjudication.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form, since the plaintiff seeks through his case to compel the defendant to pay the Value-Added Tax (VAT) arising from the sale of the property, and considering that this dispute falls within the category of tax disputes, it is deemed to be within the jurisdiction of the Tax Violations and Disputes Resolution Committee, in accordance with Royal Order No. (26040) dated 21/04/1441 AH. Furthermore, as the case was filed by a party with legal standing and within the prescribed statutory period, the Department finds it appropriate to accept the case procedurally.

On Merits: Upon examining the case documents and the responses of both parties, the Department finds that the dispute revolves around the plaintiff's request to compel the defendant to pay the Value-Added Tax (VAT) resulting from the sale of the property in question. It is undisputed that the responsibility for paying the VAT amount lies with the buyer, while the obligation to remit the tax falls on the seller. By default, the sale price is inclusive of VAT, as stipulated in the Common Agreement for Value-Added Tax of the Gulf Cooperation Council (GCC) States. The definition of "consideration" in Article (1) of the Common Agreement states: "Any amount received or to be received by the taxable supplier from the customer or a third party for the supply of goods or services, including VAT." Additionally, Paragraph (Second) of Article (25) of the same Agreement states: ".... The advertised price of goods and services in the local market must include Value-Added Tax (VAT). Since no legal provision exempts real estate from this rule, and based on the principle that "Muslims are bound by their conditions, except for a condition that prohibits what is lawful or permits what is unlawful", the following legal considerations apply: Offer and acceptance, the contracting parties, and the subject of the contract (the sold item and the price) are essential elements of a valid sale contract. Since the sale price was determined accordingly, any additional financial burden imposed on the buyer without a legal basis undermines his contractual will and unjustly subjects him to a financial obligation. If sellers were allowed to claim that VAT was not included in the sale price and attempt to recover it from the buyer after the transaction, it would destabilize financial transactions for all sales. Every seller could argue that their price excluded VAT, leading to retrospective claims against buyers. This is precisely what Article (1) of the Common Agreement for Value-Added Tax (GCC) and Paragraph (2) of Article (25) of the same agreement sought to clarify and prevent. By default, the advertised sale price is presumed to include VAT, and any party claiming otherwise bears the burden of proof. Since financial liability is presumed to be cleared, the burden of proof lies with the plaintiff (seller) and not the defendant (buyer). If sellers were allowed to claim that VAT was not included in the sale price and attempt to recover it from the buyer after the transaction, it would destabilize financial transactions for all sales. Every seller could argue that their price excluded VAT, leading to retrospective claims against buyers. Since the case file contains no evidence that the plaintiff was registered for VAT at the time of sale or that he issued a tax invoice, the Department finds no legal grounds for the plaintiff's claim. As a result, the case is dismissed.

Decision:

To dismiss Plaintiff case.

This decision was issued in the presence of both parties. The Department has set a period of thirty (30) days for the parties to receive a copy of the decision. The Department may extend this period

for an additional thirty (30) days at its discretion. The parties have the right to appeal the decision within thirty (30) days from the day following the specified date of receipt. If no appeal is filed within this period, the decision shall become final and enforceable upon the expiration of the deadline.

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.

Committee for Determination of Tax Violations and Disputes The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-787
Case No. V-46019-2021

Key words:
Value-Added Tax – Property Supply – Obligation of the Defendant to Pay the Tax

Abstract

The plaintiff seeks to compel the defendant to pay the Value-Added Tax (VAT) arising from the sale of the property, amounting to 50,000 SAR. The dispute revolves around the plaintiff's request to obligate the defendant to pay the VAT related to the property supply. It has been established that the defendant received an amount of 90,000 SAR from the plaintiff, along with the First Home Certificate, despite not being authorized to receive it. Accordingly, the defendant is obligated to pay the plaintiff an amount of 50,000 SAR.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Resolution No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD

Facts:

The facts of this case are summed up so as (...), acting on her own behalf, holding National ID No. (...), filed a statement of claim demanding that the defendant, (...) Bank, with Commercial Registration No. (...), be obligated to pay the Value-Added Tax (VAT) arising from the sale of the property, amounting to 50,000 SAR.

Upon presenting the statement of claim to the defendant, the bank responded as follows: "It is evident that the plaintiff is a customer of the bank and has not provided any proof of VAT exemption at the time of financing. The plaintiff must visit the branch and submit the First Home Exemption Certificate to have it applied in favor of the bank and to refund the VAT amount to the plaintiff."

On (...), dated .../.../..., a hearing was held via virtual litigation procedures. Upon calling the parties: The plaintiff, (...), attended on her own behalf, holding National ID No. (...). The defendant or their representative did not attend, despite being duly notified of the session date and method of conduct. When asked about her claim, the plaintiff reaffirmed the statement of claim submitted to the General Secretariat of Tax Committees and insisted on its contents. She further demanded the refund of 90,000 SAR, asserting that she was neither the seller nor the buyer in the transaction under dispute. Based on this, the Department decided to grant the defendant another opportunity to attend and postponed the hearing to .../.../... at 1:00 PM.

On (...), dated .../.../..., a hearing was held via virtual litigation procedures. Upon calling the parties: The plaintiff, (...), attended on her own behalf, holding National ID No. (...). (...), holding National ID No. (...), attended as the defendant's representative under Power of Attorney No. (...). When asked about the defendant's response to the plaintiff's claim, the defendant's representative stated that he adheres to the contents of the reply memorandum submitted in the case file. When asked whether the amount of 90,000 SAR had been received from the plaintiff, the defendant's representative confirmed receipt and added that the amount was taken in exchange for selling the property to a third party, which is (...) Company. Based on this, the Department decided to close the pleadings and postpone the case for deliberation and issuance of a decision in the session scheduled for (...) on .../.../... at 1:00 PM.
On (...), dated .../.../..., a session was held via virtual litigation procedures. Upon calling the parties: The plaintiff, (...), attended on her own behalf, holding National ID No. (...). (...), holding National ID No. (...), attended as the defendant's representative under Power of Attorney No. (...). Since this session was designated for issuing the decision, and after deliberation, reviewing the case documents and submitted evidence, and in accordance with the applicable laws, Implementing regulations, and the rules governing the work of tax committees, the Department decided to close the pleadings and deliberations.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441 AH, the Common VAT Agreement of GCC States, and all relevant laws and regulations.
In form, since the plaintiff seeks through his case to compel the defendant to pay the Value-Added Tax (VAT) arising from the sale of the property, and considering that this dispute falls within the category of tax disputes, it is deemed to be within the jurisdiction of the Tax Violations and Disputes Resolution Committee, in accordance with Royal Order No. (26040) dated 21/04/1441 AH. Furthermore, as the case was filed by a party with legal standing and within the prescribed statutory period, the Department finds it appropriate to accept the case procedurally.
On Merits: Upon reviewing the case documents and the responses of both parties, the Department finds that the dispute revolves around the plaintiff's request to compel the defendant to pay the Value-Added Tax (VAT) resulting from the sale of the property. It has been established that the bank received an amount of 90,000 SAR from the plaintiff, along with the First Home Certificate, despite not being authorized to receive it. Since the plaintiff limited her claim to the recovery of only 50,000 SAR, and given her right to reclaim the amount, the Department decides to obligate the defendant bank to refund the stated amount. Based on the above and in accordance with the Common Agreement, the VAT Law and its Implementing Regulations, and the Rules Governing the Work of the Tax Violations and Disputes Resolution Committees, the Department, after deliberation, unanimously decides:

Decision:

Obligating the defendant, (...) Bank, with Commercial Registration No. (...), to pay the plaintiff, (...), holding National ID No. (...), an amount of 50,000 SAR (Fifty Thousand SAR).
The decision was made in the presence of both parties, and the Department has allocated thirty days for receipt of decision copy. The Department may extend this period by an additional thirty days if necessary. According to Article (42) of the Rules of Tax Dispute and Violation Committee Procedures, this decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Committee for Determination of Tax Violations and Disputes The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-788
Case No. V-48251-2021

Key words:
Value-Added Tax – Property Supply – Non-Taxable Amount – Dismissal of Plaintiff's Claim

Abstract

The plaintiff seeks to compel the defendant to pay the Value-Added Tax (VAT) resulting from the sale of the property, amounting to 970,399.32 SAR. The dispute revolves around the plaintiff's request to obligate the defendant to pay the VAT associated with the property supply. Upon review, the Department found that the plaintiff is claiming VAT on an amount that is not subject to taxation. Accordingly, the Department dismisses Plaintiff's case.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- Paragraphs (1) and (3) of Article (29) of the Implementing Regulations of the Value-Added Tax Law, issued by the Board of Directors of the former General Authority of Zakat and Tax, under Decision No. (3839) dated 14 Dhul-Hijjah 1438H, corresponding to November 14, 2016.

Facts:

The facts of this case are summed up so as (...), acting on his own behalf, holding National ID No. (...), filed a statement of claim demanding that the defendant, (...) Bank, with Commercial Registration No. (...), be obligated to pay the Value-Added Tax (VAT) resulting from the sale of the property, amounting to 970,399.32 SAR.

Upon presenting the statement of claim to the defendant, the bank responded as follows: Upon presenting the statement of claim to the defendant, the bank responded as follows: "With reference to the subject above, we would like to inform you that the bank has received a notification from you stating that a case has been filed under Case No. 48251-2021-V on April 21, 2021. Upon accessing the system, it was found that the complainant is (...), ID No..... Upon reviewing the attached documents in the General Secretariat of Tax Committees Law, it was found that the plaintiff is requesting the bank to pay VAT on the entire financing amount (including both the property value and the profit margin subject to VAT), rather than solely on the purchase price. This does not align with the guidance issued by the General Authority of Zakat and Tax (GAZT) regarding the investment sector, which states that VAT should be applied to the purchase price at the standard rate and not on the total financing amount. The amount reflected in the title deed is

the amount owed to the bank over the full term of the real estate financing, which establishes the bank's entitlement to the amount. We would like to note that the market value of the property is estimated at 1,478,290 SAR." Attachments: • Sale contract, showing that the property value is 1,665,000 SAR (Attachment 1). Third-party property valuation report, estimating the property at 1,478,290 SAR (Attachment 2). Extract from the real estate investment and financing sector guide, as referenced above (Attachment 3). Conclusion: Based on the aforementioned points, (...) Bank respectfully requests the honorable committee to dismiss the case for the reasons stated. The bank reserves the right to submit further responses and clarifications regarding the plaintiff's claim before the relevant committees, provided that all data and explanations are presented within the statutory timeframe. Additionally, the bank retains the right to submit additional memorandums, statements, and documents that may be deemed necessary to support its case before and during the hearing.

On (...), dated .../.../..., a hearing was held via virtual litigation procedures. In this session, the plaintiff or their representative failed to appear, despite having been duly notified of the session date in accordance with regulations. Since the absence of the plaintiff is considered an abandonment of the case, the Department unanimously decided to remove the case from the hearing schedule, in accordance with Article (20) of the Rules Governing the Work of the Tax Violations and Disputes Resolution Committees.

On (...), dated .../.../..., a hearing was held via virtual litigation procedures. The plaintiff, (...), attended on his own behalf, holding National ID No. (...). (...), holding National ID No. (...), attended as the defendant's representative under Power of Attorney No. (...). When asked about his claim, the plaintiff reaffirmed the contents of the statement of claim submitted to the General Secretariat of Tax Committees and adhered to its details. When asked about the defense, the defendant's representative confirmed adherence to the reply memorandum. The Department instructed the plaintiff to clarify his claim by providing: the agreed-upon sale price of the property, a copy of the check used for the property payment and a proof of the amount received from the Ministry of Housing under the VAT exemption certificate. The plaintiff must submit the required documents before March 24, 2022. The defendant will be given access to the submitted documents and must provide a response before March 31, 2022. The next hearing is scheduled for April 14, 2022, at 12:00 PM.

On (...), dated .../.../..., a hearing was held via virtual litigation procedures. Upon calling the parties: The plaintiff, (...), attended on his own behalf, holding National ID No. (...). (...), holding National ID No. (...), attended as the defendant's representative under Power of Attorney No. (...). When both parties were asked if they had any additional submissions beyond those already provided in the statement of claim and subsequent responses, they both declined. Therefore, the Department decided that parties to the Case should temporarily leave the virtual room for deliberation and adjudication.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form, since the plaintiff seeks through his case to compel the defendant to pay the Value-Added Tax (VAT) arising from the sale of the property, and considering that this dispute falls within the category of tax disputes, it is deemed to be within the jurisdiction of the Tax Violations and Disputes Resolution Committee, in accordance with Royal Order No. (26040) dated 21/04/1441

AH. Furthermore, as the case was filed by a party with legal standing and within the prescribed statutory period, the Department finds it appropriate to accept the case procedurally.
On Merits: revolves around the plaintiff's request to compel the defendant to pay the Value-Added Tax (VAT) resulting from the sale of the property. It has been established that the plaintiff provided a VAT registration certificate dated 18/10/2021, with an effective registration date of 10/11/2021, which predates the property supply transaction. The plaintiff also submitted a sales contract, which outlines the agreed sale price of the land between the plaintiff and the final buyer (the bank's client) as 1,665,000 SAR. Since the defendant (the bank) acted as an intermediary buyer, purchasing the property from the plaintiff for resale to its client (the final beneficiary) under a Murabaha contract, the bank issued a sales invoice to its client for the property sale price of 1,665,000 SAR, excluding the credit cost (deferred payment cost), which is exempt under Paragraphs (1) and (3) of Article 29 of the Implementing Regulations. This indicates that the actual sale price of the property does not match the amount claimed by the plaintiff. Furthermore, the mortgaged property ownership deed submitted by the plaintiff, which reflects the transfer of ownership to the final buyer (the bank's client), does not constitute valid evidence of the sale price between the plaintiff and the defendant (the bank). The ownership transfer should have been conducted by the defendant (... bank) and not the plaintiff. Given these findings, the Department is convinced that the plaintiff is claiming VAT on an amount that is not subject to taxation. Based on the above and in accordance with the Common Agreement, the VAT Law and its Implementing Regulations, and the Rules Governing the Work of the Tax Violations and Disputes Resolution Committees, the Department, after deliberation, unanimously decides to dismiss the plaintiff's claim.

Decision:

To dismiss Plaintiff case.
This decision was issued in the presence of both parties. The Department has set a period of thirty (30) days for the parties to receive a copy of the decision. The Department may extend this period for an additional thirty (30) days at its discretion. The parties have the right to appeal the decision within thirty (30) days from the day following the specified date of receipt. If no appeal is filed within this period, the decision shall become final and enforceable upon the expiration of the deadline.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-813
Case No. V-63553-2021

Key words:
Value-Added Tax – Reassessment – Purchases – Tax Period – Dismissal of the Claim

Abstract

The Taxpayer seeks to annul ZATCA's decision regarding the reassessment of the tax period for the first quarter of 2020. The dispute revolves around the final assessment for Q1 2020. Upon review, the Department found that the Taxpayer did not provide any additional documents to substantiate the VAT due or to demonstrate that they correctly bore the tax liability as a customer. As a result, there is no evidence to prove that the tax was properly assessed and paid. Therefore, the Department ruled to dismiss the Taxpayer's case.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Paragraphs (1) and (2) of Article (48) of the Common Agreement for Value Added Tax of the Gulf Cooperation Council Countries, November 2016.
- Article 49.7 of the The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly) No. (3839) dated 14/12/1438 AH corresponding to 14/11/2016 AD

Facts:

The facts of this case are summarized as follows: (...), holding National ID No. (...), filed a statement of claim objecting to the defendant's decision regarding the reassessment of the tax period for the first quarter of 2020 and requests the cancellation of the defendant's decision.
The Defendant responded with a memorandum of reply, stating the following: First: On Merits: ZATCA adjusted the local taxable purchases at the standard rate to (0) SAR. The amounts were excluded due to the plaintiff's failure to provide supporting documents to substantiate the accuracy of his declaration. Accordingly, ZATCA reaffirms its decision to amend the purchases category. Defendant representative concluded his Reply with requesting dismissal of the case. End of Answer.
On (...), dated .../.../..., .../.../..., the session was held via virtual litigation procedures. The defendant attended, while the plaintiff failed to appear, despite being duly notified of the session date and its mode of conduct. The session was attended by the defendant's representative, (...). holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), Dated ../ /../.. dated ....., issued by Deputy Governor for Legal Affairs. Given the Plaintiff's absence, the Defendant requested to proceed with the case and issue a

decision. Therefore, the Department decided to adjourn the session for deliberation and issue a decision.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

Since the plaintiff seeks through his case to annul the defendant's decision regarding the reassessment of the tax period for the first quarter of 2020, based on the Value-Added Tax (VAT) Law and its Implementing Regulations, and considering that this dispute falls within the category of tax disputes, it is deemed to be within the jurisdiction of the Tax Violations and Disputes Resolution Committee, in accordance with Royal Order No. (26040) dated 21/04/1441 AH. Furthermore, as the case was filed by a party with legal standing and within the prescribed statutory period, the Department finds it appropriate to accept the case procedurally.

On Merits:

Upon reviewing the case documents and the responses of both parties, after granting them sufficient time to present their arguments and evidence, the Department finds that the dispute revolves around the final assessment for Q1 2020. As a result of this assessment, the disputed amount was excluded from the purchases category due to "purchases that are not eligible for deduction due to the absence of supporting documentation," in accordance with Article (48) of the Common Agreement and Article (49) of the Implementing Regulations. This was based on the Final Assessment Notification, where Paragraph (1) of Article (48) of the Common Agreement for Value-Added Tax of the Gulf Cooperation Council (GCC) States reads as follows: "For the purpose of exercising the right to deduction, the taxable person must possess the following documents:" A. The tax invoice obtained in accordance with the provisions of this Agreement. Additionally, Paragraph (2) of Article (48) of the Common Agreement for Value-Added Tax of the Gulf Cooperation Council (GCC) States stipulates: "Each Member State may allow a taxable person to exercise the right to deduct input tax even in the absence of a tax invoice or if the invoice does not meet the conditions stipulated in this Agreement, provided that the amount of the due tax is proven by any other means." Furthermore, Paragraph (7) of Article (49) of the Implementing Regulations of the VAT Law states: "Input VAT may not be deducted unless the taxable person has evidence that the amount of input VAT paid or due is in accordance with the provisions specified in Article (48) of this Agreement. In cases where the taxable person does not possess the required documents as specified in the Agreement, they may claim the deduction if they are able to provide the following alternative evidence to ZATCA: A. A properly issued simplified tax invoice in accordance with these regulations" It was found that the plaintiff did not submit a statement of purchases for the relevant period or provide a sample of invoices from each supplier to verify the accuracy of the statement and thus substantiate the validity of his declaration. Additionally, the plaintiff failed to submit any other documents proving the VAT due or demonstrating that he bore the tax liability as a customer to confirm that he was correctly assessed and had paid the relevant VAT. Regarding the plaintiff's self-reporting of these purchases without possessing supporting documentation that would entitle him to claim input tax deduction and prove that he bore the VAT liability as a customer, this constitutes a violation of Paragraphs (1) and (2) of Article (48) of the Common Agreement for VAT of the GCC States and Paragraph (7) of Article (49) of the Implementing Regulations of the VAT Law. Since the plaintiff was granted the opportunity to provide the required documentation during the case proceedings but failed to

do so, the Department finds it appropriate to uphold the defendant's decision and dismiss the case.
For the aforementioned grounds, the Department unanimously decided as follows:

Decision:

To dismiss Plaintiff case.
This decision was issued in the presence of both parties. The Department has set a period of thirty (30) days for the parties to receive a copy of the decision. The Department may extend this period for an additional thirty (30) days at its discretion. Either party has the right to appeal the decision within thirty (30) days from the day following the specified date for receiving the decision. If no appeal is filed within this period, the decision shall become final and enforceable upon the expiration of this deadline.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-814
Case No. V-63399-2021

Key words:
Value-Added Tax – Late Registration fine – Exceeding Mandatory Registration Threshold – Dismissal of the Claim

Abstract

The Taxpayer seeks to annul ZATCA's decision regarding the imposition of a late registration fine for VAT. The dispute revolves around the late registration fine, which was imposed due to the Taxpayer exceeding the mandatory registration threshold. Upon review, the Department found that the Taxpayer did not provide evidence of VAT payment for the relevant tax period after it became applicable to them. Furthermore, the Taxpayer failed to present any supporting evidence for their claim, which was based solely on unsubstantiated statements. Therefore, the Department ruled to dismiss the Taxpayer's case.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article 41 of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- Articles (2), Paragraph (1) of Article (3) of the Implementing Regulations of Value Added Tax Law issued by ZATCA Board of Directors Resolution No. (3839) dated 14/14/1438 AH.

Facts:

The facts of this Case are summarized as follows: (...) holder of National ID No. (...), appeared in his capacity as Plaintiff's representative under POA No. (...) on behalf of the plaintiff, (...), holding National ID No. (...), the owner of (...) Establishment, with Commercial Registration No. (...), submitted an objection to the defendant's decision regarding the imposition of a late registration fine for Value-Added Tax (VAT) and requests its cancellation.

Having presented the statement of claims to the Defendant, it responded as follows: First: On Merits: 1. Paragraph (2) of Article (50) of the Common VAT Agreement of the States of the Gulf Cooperation Council states that "The Mandatory Registration Threshold shall be SAR 375,000" In accordance with the principle of discretionary authority granted to the administrative body, which allows it to determine the appropriate method for making decisions regarding the Taxpayer's regulatory status, the Taxpayer voluntarily acted in compliance with these regulations and selected the supply threshold applicable to their establishment. Consequently, the fine was imposed based on the Taxpayer's reported inputs. ZATCA reaffirms that the plaintiff exceeded the mandatory registration threshold on 03/03/2020, with total revenues amounting to 1,500,000 SAR. Defendant representative concluded his Reply with requesting dismissal of the case. Defendant's

response was concluded, and on (...), dated .../.../..., a hearing was held via virtual litigation procedures, as both parties wished to proceed with the case, with the participation of (...) holder of National ID No. (...), in his capacity as the attorney for the Plaintiff under POA No. ..... For the Defendant appeared Mr....., holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), Dated ../../... issued by Deputy Governor for Legal Affairs. Having asked Plaintiff about his case, he responded that he admits what is mentioned in his statement of claim submitted to General Secretariat of Zakat, Tax and Customs Committees and confirms all facts contained therein. Having asked Defendant's representative about his reply to Plaintiff claims, he maintained his answers contained in his reply deposited in the case file. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Therefore, the Department decided that parties to the Case should temporarily leave the virtual room for deliberation and adjudication.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form, since the plaintiff seeks through her case to annul the defendant's decision regarding the imposition of a late registration fine for Value-Added Tax (VAT), based on the VAT Law and its Implementing Regulations, and considering that this dispute falls within the category of tax disputes, it is deemed to be within the jurisdiction of the Tax Violations and Disputes Resolution Committee, in accordance with Royal Order No. (26040) dated 21/04/1441 AH. Furthermore, as the case was filed by a party with legal standing and within the prescribed statutory period, the Department finds it appropriate to accept the case procedurally.

On merits, Upon reviewing the case documents and the responses of both parties, after granting them sufficient time to present their arguments and evidence, the Department finds that the dispute revolves around the imposition of a late registration fine, which was applied due to the plaintiff exceeding the mandatory registration threshold. Article (2) of the Implementing Regulations of the VAT Law states: ""For the purposes of the Law and these Regulations, a Taxable Person in the Kingdom is a Person who conducts an Economic Activity independently for generating income, and is registered for VAT in the Kingdom or who is required to register for VAT in the Kingdom under the Law or these Regulations"" Paragraph (1) of Article (Third) state: "Any resident person in the Kingdom who is not registered with the Authority must, at the end of each month, calculate the value of their supplies over the preceding twelve months in accordance with the requirements stipulated in the Agreement. If this value exceeds the mandatory registration threshold specified in the Agreement, the person must submit a registration application to the Authority within thirty (30) days from the end of that month, in accordance with Article 8 of these Regulations." Furthermore, Article (41) of the VAT Law states: "Any Person who has not applied for registration within the period specified in the Regulations shall be fined ten thousand (10.000) SAR"" It has been established that the plaintiff's revenues exceeded the mandatory registration threshold on 03/03/2020, while her first VAT registration occurred on 10/05/2021. The plaintiff argued that the establishment was already registered in the VAT Law under its previous owner, with an effective registration date of 01/01/2019, as per the VAT registration certificate. However, it has been confirmed that the ownership of the establishment was transferred to the plaintiff on 07/05/2019, according to the Ministry of Commerce's records. The plaintiff failed to provide evidence of VAT payment for the tax period following the transfer of ownership. Furthermore, she did not submit any supporting evidence for her claim, which was

based solely on unsubstantiated statements. Given these findings, the Department finds that the defendant's decision to impose the fine was valid, in accordance with Article (41) of the VAT Law. Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department after deliberation unanimously decided to:

Decision:

To dismiss Plaintiff case.

This decision was issued in the presence of both parties. The Department has set a period of thirty (30) days for the parties to receive a copy of the decision. The Department may extend this period for an additional thirty (30) days at its discretion. The decision is considered final and enforceable in accordance with Article (42) of The Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Committee for Determination of Tax Violations and Disputes The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-823
Case No. V-55462-2021

Key words:
Value-Added Tax – Final Reassessment – Zero-Rated Taxable Exports – Dismissal of the Claim

Abstract

The Taxpayer seeks to annul ZATCA's decision regarding the final reassessment of the tax period for the first quarter of 2018, specifically concerning exports subject to a zero percent tax rate. The dispute revolves around ZATCA's reassessment of the disputed tax return. Upon review, the Department found that the Taxpayer did not submit any evidence or supporting documents with the claim or during the proceedings that could justify the cancellation or modification of ZATCA's decision. Since the claim is based on an unsubstantiated assertion, it lacks merit and must be dismissed. Therefore, the Department ruled to dismiss the Taxpayer's case.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly)

Facts:

Facts of this case are as follows: (...) Company, with Commercial Registration No. (...), submitted a statement of claim through (...), Resident ID No. (...), in his capacity as the manager of the plaintiff company. The claim objects to the defendant's decision regarding the final reassessment of the tax period for the first quarter of 2018 and the fines resulting from the reassessment. The plaintiff requests the cancellation of the decision and the imposed fines.
Having presented the statement of claims to the Defendant, it responded as follows: First: In from: We would like to inform Your Excellency that the plaintiff had a pending objection under review by ZATCA on ... -..-.. with reference number (...). Subsequently, the Taxpayer submitted their objection to the General Secretariat before ZATCA issued its decision rejecting the objection, dated .../.../.... From the above, it is evident that the plaintiff filed the case before ZATCA had ruled on the objection and before the expiration of the 90-day period stipulated in Article (2) of the Rules Governing the Work of the Tax Violations and Disputes Resolution Committees. "Any person against whom a decision has been issued by GAZT may file an objection before it within 60 days from the date of notification thereof. GAZT shall decide on the objection within 90 days from the date of filing. If a decision is made to deny the objection or a period of 90 days lapses without deciding thereon, a taxpayer may, within 30 days from the date of being notified of the

denial of the objection or upon the lapse of 90 days without a decision thereon, take any of the following actions: 1. Request the referral of the objection to the internal committee for settlement. If a Taxpayer rejects the internal committee's decision or if the period specified in the Settlement Procedures lapses without reaching a settlement, the Taxpayer may file a case before the dispute committee against GAZT's decision within 30 days from the date of being notified of the internal committee's decision or upon the lapse of the period specified in the Settlement Procedures without reaching a settlement. Such case shall not include issues settled with the internal committee. 2. File a case directly before the dispute committee". It is evident that the plaintiff violated procedural regulations, as the right to file the claim was within thirty (30) days from the date of being notified of the rejection of their objection. The claim should have been filed after ZATCA issued its decision. Accordingly, the filed claim is premature. Second: On Merits: 1- Regarding plaintiff's objection to the amendment of the export items subject to a zero percent tax rate for the first quarter of 2018: The reassessment resulted in an adjustment to the zero-rated exports and the complete exclusion of the standard-rated sales item due to non-compliance with the conditions stipulated in Article 33 of the Implementing Regulations of the VAT Law. This article clarifies the services supplied to non-residents of GCC countries. 2- During the Objection Review Stage: ZATCA determined that the services were provided to a resident in the Kingdom (... Company), and the amount in question was related to the installation and maintenance of equipment and machinery with (...) Company. Accordingly, ZATCA's action was legally compliant, subjecting the amount to the standard-rated local sales category. Additionally, (...) Company has a branch within the Kingdom, and the final beneficiary of the services is also located in the Kingdom. The plaintiff confirmed the nature of the services provided to clients. The zero percent VAT rate does not apply if: The client is a resident of any GCC member state. The services are utilized within the Kingdom, where the final beneficiary has a fixed establishment or place of residence in the Kingdom or another GCC member state.

Since the clients have branches inside the Kingdom, it is evident that the conditions outlined in Article 33 of the Implementing Regulations of the VAT Law do not apply. 3. As a result of the audit and reassessment of the disputed tax period, As a result of the examination and assessment of the tax period under objection, a fine for error in the declaration was imposed, along with a late payment fine for the months following the tax period in question. Defendant's representative concluded their memorandum by requesting the dismissal of the claim on procedural grounds and the rejection of the case. End of Answer.

On (...), dated .../.../..., /../.., in this session, representative of the defendant and the representative of the plaintiff (...) holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), Dated ../../... issued by the Deputy Governor for Legal Affairs, the plaintiff or their representative failed to appear, despite being duly notified of the session date in accordance with regulations. Since the plaintiff has abandoned the case, the Department unanimously decided to remove the case from the hearing schedule, in accordance with Article (20) of Tax Violations and Disputes Committee Procedures.

On ... /.../... the plaintiff submitted a request to proceed with the case.

On Monday, 21/03/2022, the session was held remotely via virtual litigation procedures, as both parties wished to proceed with the case holder of National ID No. (...), in his capacity as the attorney for the Plaintiff under POA No. ..... For the Defendant appeared Mr....., holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), Dated ../../... issued by the Deputy Governor for Legal Affairs, and upon questioning the plaintiff's representative about the claim, he responded in accordance with the statement of claim submitted to the General Secretariat of Tax Committees and affirmed adherence to its contents. When the defendant's representative was asked for a response, he confirmed adherence to the reply memorandum. When the plaintiff's representative was asked if he had any comments on the defendant's submission, he requested additional time to provide a response. Accordingly, the Department decided to grant the plaintiff's request and postpone the hearing to ... /../...

The plaintiff submitted a reply memorandum, stating: We would like to clarify that the amount added to exports is 5,113,900 SAR. Upon review, it is evident that there are amounts that we are entitled to object to as they meet the required conditions. We wish to clarify that the invoices and amounts under objection are indeed sales that are not subject to Value-Added Tax (VAT) for multiple reasons. End of Answer.

On Thursday, corresponding to .../.../..., a hearing was held via virtual litigation procedures, as both parties wished to proceed with the case, with the participation of (...) holder of National ID No. (...), in his capacity as the attorney for the Plaintiff under POA No. ..... For the Defendant appeared Mr....., holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), Dated ../../... issued by the Deputy Governor for Legal Affairs, and upon questioning both parties about any additional submissions, they stated that they rely on their previous submissions. Therefore, the Department decided that parties to the Case should temporarily leave the virtual room for deliberation and adjudication.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form, since the plaintiff seeks through her case to annul the defendant's decision regarding the final reassessment of the tax period for the first quarter of 2018 and the fines resulting from the reassessment, based on the VAT Law and its Implementing Regulations, and considering that this dispute falls within the category of tax disputes, it is deemed to be within the jurisdiction of the Tax Violations and Disputes Resolution Committee, in accordance with Royal Decree No. (M/113) dated 02/11/1438 AH. Furthermore, as the case was filed by a party with legal standing and within the prescribed statutory period, the Department finds it appropriate to accept the case procedurally.

On merits, Upon reviewing the case documents and the responses of both parties, after granting them sufficient time to present their arguments and evidence: First: Regarding Zero-Rated Exports: It is evident that the dispute revolves around ZATCA's reassessment of the disputed tax return. Since the plaintiff company did not submit any evidence or supporting documents with the claim or during the proceedings that could justify the cancellation or modification of the defendant authority's decision, the claim, in this case, is merely an unsubstantiated allegation that must be disregarded. Accordingly, the claim is dismissed.

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

Decision:

To dismiss Plaintiff case.

This decision was issued in the presence of both litigants, and Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-824
Case No. V-55579-2021

Key words:
Value-Added Tax – Final Reassessment – Zero-Rated Taxable Exports – Dismissal of the Claim

Abstract

The Taxpayer seeks to annul ZATCA's decision regarding the final reassessment of the tax period for the first quarter of 2019, specifically concerning exports subject to a zero percent tax rate. The dispute revolves around ZATCA's reassessment of the disputed tax return. Upon review, the Department found that the Taxpayer did not submit any evidence or supporting documents with the claim or during the proceedings that could justify the cancellation or modification of ZATCA's decision. Since the claim is based on an unsubstantiated allegation, it lacks merit and must be dismissed. Therefore, the Department ruled to dismiss the Taxpayer's case.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly)

Facts:

The facts of this case are summarized as follows: The company (...), holding Commercial Registration No. (...), submitted a statement of claim through (...), Resident ID No. (...), As the manager of the plaintiff company, he filed a statement of claim objecting to the defendant's decision regarding the final reassessment of the tax period for the second quarter of 2019 and the fines resulting from the reassessment. The plaintiff requests the cancellation of the decision and the imposed fines.

Having presented the statement of claims to the Defendant, it responded as follows: First: In from: We would like to inform Your Excellency that the plaintiff had a pending objection under review by ZATCA on .../.../.... with reference number (...). Subsequently, the Taxpayer submitted their objection to the General Secretariat before ZATCA issued its decision rejecting the objection, dated .../.../.... From the above, it is evident that the plaintiff filed the case before ZATCA had ruled on the objection and before the expiration of the 90-day period stipulated in Article (2) of the Rules Governing the Work of the Tax Violations and Disputes Resolution Committees. "Any person against whom a decision has been issued by GAZT may file an objection before it within 60 days from the date of notification thereof. GAZT shall decide on the objection within 90 days from the date of filing. If a decision is made to deny the objection or a period of 90 days lapses

without deciding thereon, a taxpayer may, within 30 days from the date of being notified of the denial of the objection or upon the lapse of 90 days without a decision thereon, take any of the following actions: 1. Request the referral of the objection to the internal committee for settlement. If a Taxpayer rejects the internal committee's decision or if the period specified in the Settlement Procedures lapses without reaching a settlement, the Taxpayer may file a case before the dispute committee against GAZT's decision within 30 days from the date of being notified of the internal committee's decision or upon the lapse of the period specified in the Settlement Procedures without reaching a settlement. Such case shall not include issues settled with the internal committee. 2. File a case directly before the dispute committee". It is evident that the plaintiff violated procedural regulations, as the right to file the claim was within thirty (30) days from the date of being notified of the rejection of their objection. The claim should have been filed after ZATCA issued its decision. Accordingly, the filed claim is premature. Second: On Merits: 1- Regarding the plaintiff's objection to the adjustment of the zero-rated taxable exports for the second quarter of 2019: The reassessment resulted in an adjustment to the zero-rated exports and the complete exclusion of the standard-rated sales item due to non-compliance with the conditions stipulated in Article 33 of the Implementing Regulations of the VAT Law. This article clarifies the services supplied to non-residents of GCC countries. 2- During the Objection Review Stage: ZATCA determined that the services were provided to a resident in the Kingdom (... Company), and the amount in question was related to the installation and maintenance of equipment and machinery with (...) Company. Accordingly, ZATCA's action was legally compliant, subjecting the amount to the standard-rated local sales category. Additionally, (...) Company has a branch within the Kingdom, and the final beneficiary of the services is also located in the Kingdom. The plaintiff confirmed the nature of the services provided to clients. The zero percent VAT rate does not apply if: The client is a resident of any GCC member state. The services are utilized within the Kingdom, where the final beneficiary has a fixed establishment or place of residence in the Kingdom or another GCC member state.

Since the clients have branches inside the Kingdom, it is evident that the conditions outlined in Article 33 of the Implementing Regulations of the VAT Law do not apply. 3. As a result of the audit and reassessment of the disputed tax period, As a result of the examination and assessment of the tax period under objection, a fine for error in the declaration was imposed, along with a late payment fine for the months following the tax period in question. Defendant's representative concluded their memorandum by requesting the dismissal of the claim on procedural grounds and the rejection of the case. End of Answer.

On (...), dated ../../.., in this session, the representative of the defendant and the representative of the plaintiff (...) No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), Dated ../../... issued by the Deputy Governor for Legal Affairs, the plaintiff or their representative failed to appear, despite being duly notified of the session date in accordance with regulations. Since the plaintiff has abandoned the case, the Department unanimously decided to remove the case from the hearing schedule, in accordance with Article (20) of Tax Violations and Disputes Committee Procedures.

On ... /.../... the plaintiff submitted a request to proceed with the case.

On .., dated .../.../..., a hearing was held via virtual litigation procedures, as both parties wished to proceed with the case, with the participation of (...) holder of National ID No. (...), in his capacity as the attorney for the Plaintiff under POA No. ..... For the Defendant appeared Mr....., holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), Dated ../../... issued by the Deputy Governor for Legal Affairs, and upon questioning the plaintiff's representative about the claim, he responded in accordance with the statement of claim submitted to the General Secretariat of Tax Committees and affirmed adherence to its contents. When the defendant's representative was asked for a response, he confirmed adherence to the reply memorandum. When the plaintiff's representative was asked if he had any comments on the defendant's submission, he requested additional time to provide a

response. Accordingly, the Department decided to grant the plaintiff's request and postpone the hearing to ... /../...
The plaintiff submitted a reply memorandum, stating: We would like to clarify that the amount added to exports is 5,113,900 SAR. Upon review, it is evident that there are amounts that we are entitled to object to as they meet the required conditions. We wish to clarify that the invoices and amounts under objection are indeed sales that are not subject to Value-Added Tax (VAT) for multiple reasons. End of Answer.
On (...), dated .../.../..., a hearing was held via virtual litigation procedures, as both parties wished to proceed with the case, with the participation of (...) holder of National ID No. (...), in his capacity as the attorney for the Plaintiff under POA No. ..... For the Defendant appeared Mr....., holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), Dated ../../... issued by the Deputy Governor for Legal Affairs, and upon questioning both parties about any additional submissions, they stated that they rely on their previous submissions. Therefore, the Department decided that parties to the Case should temporarily leave the virtual room for deliberation and adjudication.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.
In form, since the plaintiff's aim in the case is to annul the defendant's decision regarding the final re-assessment for the tax period related to the second quarter of 2019, along with the fines resulting from the re-assessment, based on the VAT law and its Implementing regulations, and since this dispute is a tax dispute, it falls within the jurisdiction of the Tax Violations and Disputes Settlement Committee under Royal Decree No. (M/113) dated 2/11/1438H, and since the case was filed by a person with standing and within the legally prescribed time frame, the Department is required to accept the case in terms of form.
On merits, Upon reviewing the case documents and the responses of both parties, after granting them sufficient time to present their arguments and evidence: First: Regarding Zero-Rated Exports: It is clear that the dispute lies in the re-evaluation by ZATCA of the tax declaration in question. Since the plaintiff company did not provide any evidence or documents during the case or the hearing that could be relied upon to annul or amend the decision issued by the defendant authority, the case, in this case, is merely an allegation that should be disregarded, and therefore, the case should be rejected.
Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department after deliberation unanimously decided to:

Decision:

To dismiss Plaintiff case.
This decision was issued in the presence of both litigants, and Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-827
Case No. R-54831-2021

Key words:
Value Added Tax – Issuance of Tax Invoice – Payment of Value Added Tax

Abstract

Plaintiff's claim to oblige the defendant regarding the payment of VAT in the amount of (46,250) SAR; resulting from the purchase of a property for (1,775,000) SAR from the defendant. The dispute between the plaintiff and the defendant is regarding the plaintiff's demand for VAT in the amount of (46,250) SAR. It was found by the Department that the tax had already been received from the plaintiff, as evidenced by the plaintiff's statement confirming no further claim for the tax, which imposes an obligation on the defendant for something he does not owe. The request is premature, and the required tax invoice has been submitted. Accordingly, the Department dismisses Plaintiff's case.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Article (25) of Common VAT Agreement of the States of the Gulf Cooperation Council (GCC), November 2016 AD
- Article (14) of the Implementing Regulations of Value Added Tax Law issued by resolution of the Board of Directors of ZATCA No. (3839) on 14/14/1438 AH.

Facts:

The facts of this case are summarized as follows: (...) with National ID number (...), filed a case against (...) with National ID number (...), requesting to obligate the defendant to issue a tax invoice for the payment of Value Added Tax in the amount of (46,250) SAR; resulting from the purchase of a property for (1,775,000) SAR from the defendant, located in the Al-Amanah district of Riyadh, from plan number (2078/Ab) and land plot number (...)

On (...) dated .. / .. / .., the session was held according to the procedures for remote litigation, and upon calling the parties to the case, (...) appeared in person with National ID number (...), but the defendant or their representative did not appear. When the plaintiff's attorney was asked about the case, he responded according to the contents of the petition submitted to the General Secretariat of the Tax Committees and reiterated what was stated therein. Accordingly, the Department decided to allow a second opportunity for the defendant to attend, as well as the company (..), and postponed the hearing to /.. /... at 1:00 PM.

On (...), dated ../../.., the session was held according to the procedures for remote litigation, and upon calling the parties to the case, the plaintiff (...) appeared in person with National ID number (...), but the defendant or their representative did not attend. Also, (...) holder of National ID No.

(...), appeared as the attorney for company (...) under POA No. (...) Since the latter was unable to review the case file and understand what is required of his client as a party involved in the case, the Department requested him to clarify and provide a response to the following points: 1. Did the company pay the tax for the real estate supply transaction that took place with the seller (...) based on the deed transferred to the company's client on ../../.., and to whom was the payment made, and what is the supporting document? If the tax was not paid, please explain the reason for that. 2. Did the company's client collect the tax for the real estate supply transaction that took place between the company and the client of (...) (...) Bank based on the deed transferred to the buyer on .. / .. / .., which is mortgaged with (...) company, and from whom was the tax collected? Based on this, the Department decided to postpone the session to .. / .. / .. at 1:00 PM, with (...) company required to submit the requested documents before .. /../...

On (...), dated ../../.., the session was held according to the procedures for remote litigation, and upon calling the parties to the case, the plaintiff (...) appeared in person with National ID number (...), but the defendant or their representative did not attend. Also, (...) holder of National ID No. (...), appeared as the attorney for company (...) Based on Power of Attorney number (...), and since the latter did not submit what was requested of him in the previous session, when confronted with this, he stated that he would submit the memorandum before the end of business today. Accordingly, the Department decided to give the representative of (...) company an opportunity to submit what was requested before the end of business today at the latest, and that the plaintiff will review what has been submitted and respond to it before ../../.., and postponed the hearing of the case to ../../.. at 1:00 PM.

Plaintiff submitted a Replication wherein replied as follows: It was not agreed upon under the contract mentioned in the response memorandum submitted by the representative of (...) company that I would pay the tax, nor did they request any certificate from me indicating exemption. The tax for the remaining amount and its tax value was submitted to the defendant (attached).

On (...), dated ../../.., the session was held according to the procedures for remote litigation, and upon calling the parties to the case, the plaintiff (...) holder National ID number (...), attended the session in his own behalf as Plaintiff, and Mr....., holder of National ID No. (...), As the representative of the defendant based on Power of Attorney number (...), when asked what the plaintiff would like to add, he stated that he would rely on what has already been submitted. When asked what the defendant's representative would like to add, he responded that the plaintiff had never contacted them to consider the matter amicably. He also added that his client has no standing in the case, as the property was purchased by (...) Bank, and he further mentioned that he had contacted the bank, and there was no request from them to coordinate with the plaintiff to obtain the invoices. He requested the dismissal of the case. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Therefore, the Department decided that parties to the Case should temporarily leave the virtual room for deliberation and adjudication.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form, since the plaintiff aims in his case to oblige the defendant to refund the payment of Value Added Tax in the amount of (46,250) SAR, based on the VAT law and its Implementing regulations, and since this dispute is a tax dispute, it falls within the jurisdiction of the Tax Violations and Disputes Settlement Committee under Royal Decree No. (26040) dated

21/04/1441H, and since the case was filed by a person with standing and within the legally prescribed time frame, the Department is required to accept the case in terms of form.
On merits, upon the Department's review of the case documents and the responses of both parties after being given sufficient time to present their statements and evidence, it is clear that the dispute between the plaintiff and the defendant is regarding the plaintiff's claim for Value Added Tax of (46,250) SAR, for the purchase of a property from the defendant. Article (25) of the Common VAT Agreement for the Gulf Cooperation Council (GCC) countries states: "1- VAT shall be applied at a standard rate of 5% on the value of the supply or import, unless an exemption or a zero rate is provided for the same supply in this Agreement." Additionally, Article (14) of the Implementing Regulations of the VAT Law, which pertains to taxable supplies in the Kingdom, states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom."
After reviewing the complete case file and the defenses contained therein, the plaintiff's claim against the defendant shows that the tax had already been received from him, as evidenced by the plaintiff's statement confirming no further claim for the tax. This imposes an obligation on the defendant for something he does not owe, and the request is premature. Since the inclusion of (...) in the case was for the purpose of clarifying the matter, and the required tax invoice has been submitted, it is necessary to rule in favor of dismissing the case.
Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department after deliberation unanimously decided to:

Decision:

To dismiss Plaintiff case.
This decision was issued in the presence of both parties. The Department has set a period of thirty (30) days for the parties to receive a copy of the decision. The Department may extend this period for an additional thirty (30) days at its discretion. The decision is considered final and enforceable in accordance with Article (42) of The Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Committee for Determination of Tax Violations and Disputes The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-984
Case No. V-72994-2021

Key words:
Value Added Tax – Late Registration Fine – Acceptance of the case

Abstract

The Taxpayer's claim to annul ZATCA's decision regarding the late registration fine for Value Added Tax, in the amount of (10,000) SAR, concerns the late registration fine. It appears that the dispute is related to the Taxpayer's request for the defendant to annul the late registration fine for VAT. The Department found that the Taxpayer's representative provided evidence supporting his claim, whereas the defendant did not submit any evidence proving that the Taxpayer exceeded the mandatory registration threshold or that it was expected to be reached before that, justifying the imposition of the fine. Therefore, the outcome is to accept the Taxpayer's claim and annul the defendant's decision.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly)

Facts:

The facts of this case are summarized as follows: (...) with National ID number (...), in his capacity as the legal representative of (...) company (a single-person company), Commercial Registration number (...), filed a case challenging the decision of the defendant, the Zakat, Tax, and Customs Authority, regarding the imposition of a late registration fine for Value Added Tax, decision number (...) dated .. / .. / .., in the amount of (10,000) SAR, requesting the annulment of the defendant's decision.

Having presented the statement of claims to the Defendant, it responded as follows: "Upon reviewing the plaintiff's case, it is clear that the objection pertains solely to the late registration fine. ZATCA's response is summarized as follows: - Paragraph (2) of Article (50) of the Common VAT Agreement of the States of the Gulf Cooperation Council states that "The Mandatory Registration Threshold shall be SAR 375,000" 2. In accordance with the principle of discretionary authority granted to the administrative body, which allows it to determine the approach for making decisions regarding the legal status of taxpayers, ZATCA has adopted, through its regulations, a principle of voluntary compliance for all processes, including registration, filing returns, correcting errors, and notifying ZATCA of any changes, etc. However, ZATCA retains discretionary powers to review taxpayers' status when necessary and to conduct audits and verifications of any submitted request

to ensure its accuracy and validity. Accordingly, ZATCA allowed taxable persons to complete registration voluntarily, giving them the option to submit supporting documents or rely on a declaration confirming the accuracy of the provided information. Consequently, the Taxpayer voluntarily registered and selected the supply threshold applicable to their business, and the fine was issued based on the Taxpayer's own provided inputs. fines are imposed solely on this basis. - 3 All legal requirements were published well in advance of implementation, and various awareness measures were undertaken through electronic channels. Additionally, a Common call center was made available to all taxpayers to ensure proper compliance with the VAT law and its regulations. 4. Based on the above, a late registration fine was imposed pursuant to Article (41) of the VAT Law, which states, "Any Person who has not applied for registration within the period specified in the Regulations shall be fined ten thousand (10,000) SAR". Requests: Based on the above, ZATCA requested the Honorable Committee to dismiss the case for the grounds stated above and uphold ZATCA procedures subject of the case. Also, ZATCA reserves the right to provide further replies and clarifications until closing of the pleadings".

On (...) dated .. / .. / .., the session was held according to the procedures for remote litigation, where the defendant attended but the plaintiff did not, despite being notified of the session's date and method of holding it. The representative of the defendant, (...) holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), Dated ../ /../.. dated ....., issued by Deputy Governor for Legal Affairs. Given the Plaintiff's absence, the Defendant requested to proceed with the case and issue a decision. After reviewing the case and the documents submitted, and since the case was found to be ripe for adjudication and having terminated the participation of the attendees for deliberation pursuant to the law and its implementing regulations, the Department decided to close the pleadings and deliberations.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form, since the plaintiff seeks through her case to annul the defendant's decision regarding the imposition of a late registration fine for Value-Added Tax, and considering that this dispute falls within the category of tax disputes, it is deemed to be within the jurisdiction of the Tax Violations and Disputes Resolution Committee, in accordance with Royal Order No. (26040) dated 21/04/1441 AH. Furthermore, as the case was filed by a party with legal standing and within the prescribed statutory period, the Department finds it appropriate to accept the case procedurally.

On Merits: Upon reviewing the case documents and the responses of both parties, it is clear that the dispute lies in the plaintiff's request for the defendant to annul the late registration fine for Value Added Tax. The plaintiff's representative stated that he personally registered in the Value Added Tax Law on 01/04/2021, as soon as the revenues were realized, and attached his bank statement for the period from 01/01/2020 to 30/04/2021, which showed that he did not reach the mandatory registration threshold. Therefore, since the plaintiff's representative provided evidence to support his claim, while the defendant did not provide any proof that the plaintiff exceeded the mandatory registration threshold or expected to reach it before then, justifying the imposition of the fine, the committee concludes that the fine imposed on the plaintiff is not valid.

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

Decision:

Acceptance of the plaintiff's case and annulment of the defendant's decision in dispute.
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 which may be extended for an additional period as the Department deems appropriate. 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 The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-985
Case No. V-69723-2021

Key words:
Value Added Tax – Fine for Absence of Tax Number – Acceptance of case – Cancellation of Fine

Abstract

The Taxpayer's claim to annul ZATCA's decision regarding the imposition of a fine for the absence of a tax number, in the amount of (10,000) SAR, relates to the field inspection fine. It appears that the dispute is related to the Taxpayer's request for the defendant to annul the field inspection fine. The Department found that the case file contained no evidence indicating that the Taxpayer had been previously penalized or had given an undertaking. Therefore, the Department concluded that the Taxpayer benefited from this decision, considering what occurred as an undertaking on his part, so if he commits the same violation again within the prescribed legal periods, he will be subject to a more severe fine. Conclusion: Acceptance of the Taxpayer's claim and cancellation of the fine.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article (48) of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly)

Facts:

The facts of this case are summarized as follows: (...) with National ID number (...), in his capacity as the owner of the establishment (...) with Commercial Registration number (...), filed a case challenging the decision of the defendant, the Zakat, Tax, and Customs Authority, regarding the imposition of a fine for the absence of a tax number, decision number (...) Dated ../ /.../... in the amount of (10,000) SAR, requesting the annulment of the defendant's decision.

Having presented the statement of claims to the Defendant, it responded as follows: "On 18/05/2021, ZATCA's representatives visited the Plaintiff's premises to verify the application of the tax provisions. After inspection, it was found that the Plaintiff had violated the simplified invoice requirements stipulated in Article (53.8(b)) of the Implementing Regulations of Value Added Tax Law. After due verification, ZATCA imposed a fine on the Plaintiff in the amount of SAR 10,000, based on the provisions of Article (45.3) of the Value Added Tax Law. Based on the foregoing, ZATCA requests a ruling to dismiss the case and uphold ZATCA's decision in question.

ZATCA also reserves the right to provide further responses and clarifications before the closing of the pleadings."
On (...), dated .../.../..., .../.../..., a hearing was held via virtual litigation procedures, as both parties wished to proceed with the case, with the participation of (...) National ID No....., in his capacity as the attorney for the Plaintiff under POA No. ..... For the Defendant appeared Mr....., holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), Dated ../ /../.. issued by Deputy Governor for Legal Affairs. Having asked Plaintiff about his case, he responded that he admits what is mentioned in his statement of claim submitted to General Secretariat of Zakat, Tax and Customs Committees and confirms all facts contained therein. Having asked Defendant's representative about his reply to Plaintiff claims, he maintained his answers contained in his reply deposited in the case file. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Therefore, the Department ordered that parties to the Case temporarily leave the virtual room for deliberation and adjudication.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.
In form, since the plaintiff aims in his case to request the annulment of the defendant's decision regarding the imposition of a fine for the absence of a tax number, and since this dispute is a tax dispute, it falls within the jurisdiction of the Tax Violations and Disputes Settlement Committee under Royal Decree No. (26040) dated 21/04/1441H, and since the case was filed by a person with standing and within the legally prescribed time frame, the Department is required to accept the case in terms of form.
On Merits:
On merits, upon reviewing the case documents and the responses of both parties, it is clear that the dispute lies in the plaintiff's request for the defendant to annul the field inspection fine. It is established that the decision of the Board of Directors of the Zakat, Tax, and Customs Authority, which took effect from 30/1/2022, includes the reclassification of violations and the fines for them. There is now a gradation for violations related to field visits and electronic invoicing, so that a warning is issued to the Taxpayer if the violation occurs for the first time, with the fines escalating for repeated violations. Since the Board is authorized by law to issue this, and as the new amendment is considered to be in favor of the violator, and since the decision aims to achieve one of the objectives of the law, particularly the provisions of Article 48, which mandates that the fine should correspond to the violation, and the requirement for a gradual imposition of fines with a warning before any fine is imposed, it is concluded that, while the general rule is that laws do not apply retroactively, exceptions exist, such as when a law is more favorable to the defendant, as is the case in this issue, where no final and enforceable judgment has been issued yet. Since the case file contains no evidence indicating that the plaintiff had previously been penalized or had given an undertaking, the Department concludes that the plaintiff benefits from this decision, considering what has occurred as an undertaking on his part. Therefore, if the plaintiff commits the same violation again within the prescribed legal periods, he will be subject to a more severe fine. This is what the Department rules. Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department after deliberation unanimously decided to:

Decision:

Accept the Plaintiff's case and cancel the fine for the grounds stated.
This decision was issued in the presence of both litigants, and Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-993
Case No. V-70283-2021

Key words:
Value Added Tax – Late Registration fine – Dismissal of case

Abstract

The Taxpayer's claim to annul ZATCA's decision regarding the imposition of a late registration fine for Value Added Tax, in the amount of (10,000) SAR, pertains to the late registration fine. It appears that the dispute lies in the Taxpayer's request to annul the late registration fine for VAT. The Department found that the Taxpayer did not present any evidence to refute the claim that he exceeded the mandatory registration threshold and failed to register within the prescribed registration period. Therefore, the Department ruled to dismiss the Taxpayer's case.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article 41 of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly)

Facts:

The facts of this case are summed up in that Mr....., National ID No. ..., in his capacity as the owner of ..... establishment, Commercial Registration No. ....., filed a statement of appeal, objecting to the decision of the Defendant, ZATCA, regarding the imposition of a late registration fine for Value Added Tax, No. ..... Dated ../ /.. /.., the amount of (10,000) SAR, and requests annulment of the defendant's decision.

Having presented the statement of claims to the Defendant, it responded as follows: Article 3 of the Implementing Regulations of the Value Added Tax Law stipulates that "For registration purposes, every Resident Person in the Kingdom who is not registered by the Authority must at the end of each month calculate the value of his Supplies made in the Kingdom within the twelve months then ended, in accordance with the requirements set out in the Agreement. In cases where this value exceeds the Mandatory Registration Threshold detailed in the Agreement, the Person must apply to the Authority to register within thirty (30) days of the end of that month pursuant to Article eight of these Regulations". Moreover, Article 6 of the Implementing Regulations of the Value Added Tax Law provides that "Where the Person has failed to make an application to the Authority as prescribed in these Regulations, the Authority may register such Person without submitting any application and such registration shall take effect from the relevant date prescribed under Articles three and four of these Regulations". Article 56 of the Implementing Regulations

of the Value Added Tax Law also authorized ZATCA to have access directly and on an ongoing basis to the information related to the tax that is kept by a third party. Having referred to the Plaintiff's information with the Saudi Central Bank, it was found that he had exceeded the mandatory registration threshold. 3- Based on the above, the imposition of a late registration fine is legally valid, pursuant to Article (41) of the Value Added Tax Law, which stipulates that "Any person who fails to apply for registration within the periods specified in the Regulations shall be subject to a fine of 10,000 riyals." Based on the above, ZATCA requested a ruling to dismiss the case and uphold ZATCA's decision in the case. ZATCA also reserved the right to submit further responses and clarifications before the closing of the pleadings.

On (...), dated .../.../..., .../.../..., the session was held via virtual litigation procedures. The defendant attended, while the plaintiff failed to appear, despite being duly notified of the session date and its mode of conduct. The session was attended by the defendant's representative, (...). holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), Dated ../../... dated ....., issued by Deputy Governor for Legal Affairs. Given the Plaintiff's absence, the Defendant requested to proceed with the case and issue a decision. After reviewing the case and the documents submitted, and since the case was found to be ripe for adjudication and having terminated the participation of the attendees for deliberation pursuant to the law and its implementing regulations, the Department decided to close the pleadings and deliberations Decision.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form, since the plaintiff aims in his case to request the annulment of the defendant's decision regarding the imposition of a late registration fine for Value Added Tax, and since this dispute is a tax dispute, it falls within the jurisdiction of the Tax Violations and Disputes Settlement Committee under Royal Decree No. (26040) dated 21/04/1441H, and since the case was filed by a person with standing and within the legally prescribed time frame, the Department is required to accept the case in terms of form.

On Merits: On merits, upon reviewing the case documents and the responses of both parties, it is clear that the dispute lies in the plaintiff's request for the defendant to annul the late registration fine for VAT. ZATCA maintains that, by referring to the plaintiff's data with the Saudi Central Bank, it was found that he exceeded the mandatory registration threshold. Accordingly, the late registration fine was imposed in accordance with Article (41) of the VAT Law, which stipulates that "anyone who fails to submit a registration request within the time specified in the regulations shall be penalized with a fine of (10,000) SAR." Since the plaintiff did not provide any evidence to refute the claim that he exceeded the mandatory registration threshold and failed to register within the prescribed period, the Department rules in favor of rejecting the plaintiff's claim, which is what this Department decides.

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

Decision:

To dismiss Plaintiff case.

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 which may be extended for an additional period as the Department deems appropriate. 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:
Value Added Tax – Real Estate Supply – Obligation of the Defendant

Abstract

The plaintiff's claim is to obligate the defendant to pay the Value Added Tax resulting from the real estate supply, in the amount of (35,600) SAR. The dispute concerns the plaintiff's request to oblige the defendant to pay the VAT resulting from the real estate supply. The Department found that the defendant did not provide any justification for refusing to pay the amount to the Taxpayer, as required by the regulations, since all the reasons provided by the defendant do not justify the refusal, given the clear regulatory provisions that obligate the seller to remit the tax after collecting it from the buyer. Therefore, the Department obligates the defendant to pay the amount of (35,600) SAR.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly)

Facts:

The facts of this case are summarized as follows: (...), with National ID number (...), filed a case on his own behalf, requesting to obligate the defendant, company (...) with Commercial Registration number (...), to pay the Value Added Tax resulting from the real estate supply, in the amount of (35,600) SAR.

In response, the defendant submitted a memorandum stating the following: "Summary of the claim/ The plaintiff filed his case against my client, demanding the Value Added Tax calculated on the value of the property at a rate of 5%, amounting to 35,600 Saudi SAR. Facts/ My client purchased a residential property from the plaintiff for the purpose of financing it for the client (...). Below is a table with the key details related to the financing contract for this property: Contract number (...), Purchase value of the property from the plaintiff (Saudi SAR) (712,000) SAR, and Property transfer date (April 12, 2020)." Defense/ In response to his claim: After verifying the request, it became clear that the transfer/supply date does not match the sale date provided by the plaintiff, as the transfer date is 12/4/2020, while the sale date on the invoice is 2/4/2020. Requests/ Based on the above, we request the dismissal of the case.

On (...), dated .../.../..., the session was held according to the procedures for remote litigation, where the defendant attended but the plaintiff did not, despite being notified of the session's date

and method of holding it. The representative of the defendant, (...) holder of National ID No. (...), appeared as the attorney under Power of Attorney number (...). The Department asked the attendee to submit a memorandum in response to the plaintiff's claim and decided to postpone the hearing of the case.

On (...), dated .../.../ ... the session was held according to the procedures for remote litigation, and upon calling the parties to the case, the plaintiff's attendance was not recorded. However, (...) holder of National ID No. (...), appeared as the attorney for the defendant under Power of Attorney number (...). When asked about the defendant's response to the plaintiff's claim, the defendant's attorney confirmed adherence to the content of the response memorandum. Therefore, the Department decided that parties to the Case should temporarily leave the virtual room for deliberation and adjudication.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form, Since the plaintiff's objective in this case is to compel the defendant to pay the VAT resulting from the supply of real estate, and as this dispute falls under tax-related matters, it falls within the jurisdiction of the Tax Violations and Disputes Resolution Committee, in accordance with Royal Order No. (26040) dated 21/04/1441 AH. Additionally, since the claim was filed by a party with legal standing and within the legally prescribed timeframe, the Department determines that the claim is admissible in form.

On Merits: Upon reviewing the case documents and the responses of both parties, the Department finds that the dispute lies in the plaintiff's request to oblige the defendant to pay the Value Added Tax resulting from the real estate supply, in the amount of (35,600) SAR. The defendant did not provide any justification for refusing to pay the amount to the plaintiff, as required by the regulations, since all the reasons cited by the defendant do not constitute valid grounds for refusal. This is in light of the clear regulatory provisions that oblige the seller to remit the tax after collecting it from the buyer, which the Department affirms and obligates the defendant to comply with.

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

Decision:

Oblige Defendant/ Company, C.R. No. (...), is ordered to pay the plaintiff, (...), National ID No. (...), an amount of 35,600 SAR (Thirty-FiveThousand Six Hundred SAR).

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 which may be extended for an additional period as the Department deems appropriate. 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 The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-1000
Case No. V-70820-2021

Key words:
Value Added Tax – Field Inspection Fine – Acceptance of case – Cancellation of Fine

Abstract

The Taxpayer's claim to annul ZATCA's decision regarding the imposition of a fine for failing to collect Value Added Tax. It appears that the dispute lies in the Taxpayer's request for ZATCA to annul the field inspection fine. It is established that the decision of the Board of Directors of the Zakat, Tax, and Customs Authority, which took effect from 30/1/2022, included the reclassification of violations and the fines for them. There is now a gradation for violations related to field visits and electronic invoicing, where a warning is given to the Taxpayer if the violation occurs for the first time, with fines escalating for repeated violations. Therefore, the Department concludes that the Taxpayer benefits from this decision, considering what has occurred as an undertaking on his part. If he commits the same violation again within the prescribed legal periods, he will be subject to a more severe fine. Conclusion: Acceptance of the Taxpayer's claim and cancellation of the fine.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Article (48) of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Resolution No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD
- Common VAT Agreement of GCC states of November 2016

Facts:

The facts of this case are summarized as follows: (...) with National ID number (...), in his capacity as the owner of the establishment (...), with Commercial Registration number (...), filed a case challenging the decision of the defendant, the Zakat, Tax, and Customs Authority, regarding the imposition of a fine for failing to collect Value Added Tax, decision number (...) Dated ../ /.../... in the amount of (10,000) SAR, requesting the annulment of the defendant's decision.

Having presented the statement of claims to the Defendant, it responded as follows: "On 27/06/2021, ZATCA's representatives visited the plaintiff's site to verify the application of tax provisions. After the inspection, it was found that the plaintiff violated paragraph (2) of Article (2) of the VAT Law, as the invoices did not include the tax value due according to the legally specified rate. After confirming the plaintiff's violation of the VAT Law, ZATCA imposed a fine on the plaintiff in the amount of (10,000) SAR, based on paragraph (3) of Article (45) of the VAT Law. Therefore, ZATCA requests that the case be dismissed and ZATCA's action be upheld. ZATCA

also reserves the right to provide additional responses and clarifications before the conclusion of the proceedings."
On (...), dated .../.../..., .../.../..., the session was held via virtual litigation procedures. The defendant attended, while the plaintiff failed to appear, despite being duly notified of the session date and its mode of conduct. The session was attended by the defendant's representative, (...). holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), Dated ../ /../.. dated ....., issued by Deputy Governor for Legal Affairs. Given the Plaintiff's absence, the Defendant requested to proceed with the case and issue a decision. After reviewing the case and the documents submitted, and since the case was found to be ripe for adjudication and having terminated the participation of the attendees for deliberation pursuant to the law and its implementing regulations, the Department decided to close the pleadings and deliberations Decision.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.
In form, since the plaintiff aims in his case to request the annulment of the defendant's decision regarding the imposition of a fine for failing to collect Value Added Tax, and since this dispute is a tax dispute, it falls within the jurisdiction of the Tax Violations and Disputes Settlement Committee under Royal Decree No. (26040) dated 21/04/1441H, and since the case was filed by a person with standing and within the legally prescribed time frame, the Department is required to accept the case in terms of form.
On Merits:
On merits, upon reviewing the case documents and the responses of both parties, it is clear that the dispute lies in the plaintiff's request for the defendant to annul the field inspection fine. It is established that the decision of the Board of Directors of the Zakat, Tax, and Customs Authority, which took effect from 30/1/2022, included the reclassification of violations and the fines for them. There is now a gradation for violations related to field visits and electronic invoicing, where a warning is given to the Taxpayer if the violation occurs for the first time, with fines escalating for repeated violations. Since the Board is authorized by law to issue this, and since the new amendment is considered to be in favor of the violator, and since the decision aims to achieve one of the objectives of the law, particularly the provisions of Article 48, which mandates that the fine should correspond to the violation, and the requirement for a gradual imposition of fines with a warning before any fine is imposed, it is concluded that, while the general rule is that laws do not apply retroactively, exceptions exist, such as when a law is more favorable to the defendant, as is the case in this issue, where no final and enforceable judgment has been issued yet. Since the case file contains no evidence indicating that the plaintiff had previously been penalized or had given an undertaking, the Department concludes that the plaintiff benefits from this decision, considering what has occurred as an undertaking on his part. Therefore, if the plaintiff commits the same violation again within the prescribed legal periods, he will be subject to a more severe fine. This is what the Department rules. Based on the foregoing and in accordance with provisions of the Common Agreement, Value Added Tax Law and its Implementing Regulations, and Tax Dispute and Violation Committee Procedures, the Department after deliberation unanimously decided to:

Decision:

Accept the Plaintiff's case and cancel the fine for the grounds stated.

This decision was issued in the presence of both parties, and the Department set a deadline of thirty days for receiving a copy of the decision. The Department may extend the delivery deadline for an additional thirty days as it deems necessary. The decision is considered final and enforceable in accordance with Article 42 of Tax Violations and Disputes 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 The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-1004
Case No. V-72846-2021

Key words:
Value Added Tax – Final Assessment – Domestic Sales Subject to Basic Tax Rate – fine for Incorrect Declaration – fine for Late Payment

Abstract

The Taxpayer's claim to annul ZATCA's decision regarding the final assessment notice for the fourth quarter of 2019. The Taxpayer's objection concerns the section on "domestic sales subject to the basic tax rate." The dispute centers around the final assessment notice for the tax period of the fourth quarter of 2019, specifically regarding the inclusion of the disputed amount under domestic sales subject to the basic tax rate and the tax imposed on it due to revenues from subsidiary activities, based on Article (14) of the Implementing Regulations. The Department found that the issue in dispute involves the taxation of scrap sales, consumable materials, and rental income within the context of the economic activity carried out, based on Article (14) of the Implementing Regulations. Since the disputed sales relate to goods resulting from the plaintiff's economic activity, based on their declaration and the section on "fine for incorrect declaration and late payment," the dispute lies in the imposition of the fine for late payment resulting from the final assessment notice for the tax period in question. Since the Department's opinion on the first issue supports the defendant's decision and the late payment fine was a result of this, and since it is linked to it, the Department deems the defendant's actions in imposing the fine and the late payment fine as correct. Conclusion: Dismissal of the Taxpayer's claim.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Article (14) of the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Resolution No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD
- The Common Agreement for Value Added Tax of the Gulf Cooperation Council (GCC), November 2016, ratified by Royal Decree No. (M/51) dated 03/05/1438 AH.

Facts:

The facts of this case are summarized as follows: (...) with National ID number (...), in his capacity as the legal representative of the company (...), with Commercial Registration number (...), filed a case stating the following: "A grievance regarding the decision with reference number (...) concerning the net tax due for payment amounting to 341,086.32 after re-assessment, which is a difference of 4,116.16 SAR compared to the payment amount, along with a fine for incorrect declaration of 206 SAR and a late payment fine of 6,174.24 SAR for the tax period of the fourth quarter of 2019. This decision was issued in accordance with Article 14 of the amended

Implementing Regulations issued on 18/10/2020, with the amendment made to the same article on 05/04/2020. This means that the re-assessment was based on an article that was amended after a declaration was submitted more than a year ago, with a fine for incorrect declaration and a late payment fine that is more than one and a half times the value of the tax. The assessor relied on Article 14 of the Implementing Regulations, which states that all supplies are subject to tax as long as they are within the context of the entity's economic activity. However, the revenues estimated at 82,323.02 SAR are unrelated to the company's economic activity, as the company's activity is transportation. Additionally, according to Article 15, paragraph 4 of the Implementing Regulations, which states, "If the Taxpayer has not used the goods in their economic activity due to damage, theft, or loss, those goods will not be considered as presumed supplies." These revenues resulted from the sale of damaged and consumed parts, waste oils changed for trucks, and fully consumed assets disposed of as scrap. A model explaining these amounts, upon which the re-assessment was based, is attached. Based on the above, we kindly request your acceptance of the objection and the removal of these amounts from the company's liabilities, as we are working diligently to cooperate with the Zakat, Tax, and Customs Authority, assisting the auditors, and providing all documents clearly and making available all necessary operations for the inspection process. This demonstrates the company's commitment.

Having presented the statement of claims to the Defendant, it responded as follows: Upon reviewing the plaintiff's case, it appears that it is limited to the following items: 1. The section on sales subject to the basic tax rate for the tax period in question. 2. The fine for the error in submitting the declaration for the tax period in question. 3. The fine for late payment for the tax period in question. We summarize our response s follows: 1.1 With regard to the First Clause, ZATCA exercised its legal right to verify the accuracy of tax returns, as stipulated in Article (50) of the VAT Law, which states: "Taking into account the provisions of Article (28) of the Law, ZATCA is responsible for managing, auditing, assessing, and collecting the tax, and it may take any measures it deems necessary to achieve this purpose." Pursuant to Paragraph (1) of Article (26) of the Value Added Tax Law: "-1 The Authority may conduct a tax assessment for the taxable person regardless of the tax return submitted by them." Additionally, as per Article (64) of the Implementing Regulations of the VAT Law: "1 - The Authority may issue an assessment of a taxable person's VAT obligations for one or more tax periods, and ZATCA must notify them of such an assessment upon issuance." ZATCA re-assessed the declaration for the tax period in question, resulting in the inclusion of discrepancies in revenues from the balance and the revenues in the tax declarations, which consist of scrap sales and consumable materials. This was based on Article (14) of the Implementing Regulations of the VAT Law, which states: "Without prejudice to the provisions of Article 2 of the law, and for the purposes of applying the agreement and the law in the Kingdom, tax is imposed on all taxable supplies of goods and services made by any taxable person in the Kingdom within the context of economic activity." Authority's procedure is not undermined by the plaintiff company's argument that these supplies are outside the scope of its economic activity. What matters in determining whether or not tax is imposed is whether the supplies were made within the context of economic activity. Considering the nature of the goods in question, they are scrap parts, oils, and consumables within the context of the plaintiff company's economic activity. Therefore, ZATCA maintains that the action it took is correct. 1.2 With regard to the Second Clause: The fine was imposed after it became apparent to ZATCA that the submitted declaration was incorrect, based on paragraph (1) of Article (42) of the VAT Law, which states: "Anyone who submits a wrong tax declaration to ZATCA, or modifies a tax declaration after its submission, or submits any document to ZATCA related to the tax due, resulting in an error in calculating the tax amount that is less than the amount due, shall be penalized with a fine equivalent to (50%) of the difference between the calculated and due tax." 3.1 With regard to the Third Clause, After reviewing the plaintiff's declaration for the period in question, ZATCA found it to be incorrect, which required the amendment of the declaration and the issuance of a final assessment notice. As a result, there was a discrepancy in the due tax amount,

which was not paid within the prescribed time limit. Accordingly, a late payment fine was imposed for the months following the tax period in question, as explained at that time, in accordance with the provisions of Article (43) of the VAT Law, which states: "Anyone who fails to pay the due tax within the period specified by the regulations shall be penalized with a fine equivalent to (5%) of the unpaid tax amount for each month, or part thereof, for which the tax remains unpaid."
Second: Requests: Based on the above, ZATCA requests the Honorable Committee to dismiss the case for the reasons stated above and to confirm ZATCA's decision. ZATCA reserves the right to provide further responses and clarifications until pleadings closing.
Plaintiff submitted a reply stating the following: Upon reviewing ZATCA's response memorandum, the issues are limited to the following points: 1. Response to the inclusion of other revenues not related to the activity under the basic taxable sales category. 2. Response to the fine for incorrect declaration. 3. Response to the fine for late payment.
Therefore, we present our response to these points as follows: -1 With regard to the First Clause, ZATCA relied in its examination, assessment, and verification of the correctness of the submitted declarations on the provisions of Article 14 of the Implementing Regulations, which states: "Without prejudice to the provisions of Article 2 of the law and for the purposes of applying the agreement and the law in the Kingdom, tax is imposed on all taxable supplies of goods and services made by any taxable person in the Kingdom within the context of economic activity, or on those received by any taxable person in the Kingdom in the context of economic activity in cases where reverse charge mechanism (tax liability) is applied, and on the import of goods into the Kingdom." This was amended and issued on 18-10-2020, with a subsequent amendment to the same article on 05-04-2020. ZATCA did not respond by indicating that the re-assessment was based on an article amended after a declaration was submitted more than a year ago. It is not objective to reassess the correctness of the declaration in light of an article and regulation amended after the declaration submission. Furthermore, ZATCA did not respond regarding the provisions of Article 15, paragraph 4, of the Implementing Regulations, which states: "If a taxable person does not use goods in their economic activity due to damage, theft, or loss, those goods shall not be considered as presumed supplies." The revenues in question resulted from the sale of damaged and consumed parts, waste oils changed for trucks, and fully consumed assets disposed of as scrap. A model explaining these amounts, which were used for the re-assessment, is attached. Since the assessor relied on Article 14 of the Implementing Regulations, which states that all taxable supplies are subject to tax as long as they are within the context of the entity's economic activity, the revenues in question are unrelated to the company's economic activity, as the company's business is transportation. The disposal of damaged parts, consumed oils, and waste materials to clean the worksite with minimal amounts cannot be considered basic revenues, and no tax amounts were collected for their disposal. 2. With regard to the Second Clause: ZATCA provided its response regarding the fine for incorrect declaration according to Article (40), paragraph (1), which states: "Anyone who submits a wrong tax declaration to the authority, or modifies a tax declaration after submission, or submits any document to the authority related to the tax due, resulting in an error in calculating the tax amount that is less than the amount due, shall be penalized with a fine equivalent to (50%) of the difference between the calculated and due tax." Am I being penalized for an error in the declaration regarding revenues that were disclosed and clarified during our inspection processes to ZATCA as other revenues, and which were specified in the income statement and the zakat declaration? Moreover, am I being penalized for a modification that was made after more than a year under Article 14 of the Implementing Regulations? 3. Regarding the third point, we argue that there has been no delay in any amounts due to ZATCA in previous years for the tax, and for every declaration submitted to ZATCA. As for this specific declaration, which has already been clarified, these revenues are unrelated to the activity according to the provisions of Article (15). Therefore, there are no overdue amounts for which these fines imposed by ZATCA are applicable. Second: In light of the above, we kindly request the esteemed committee to rule in

favor of accepting the case and refunding the amounts to the company's account, for the reasons outlined above".

On Monday, dated ../../..., the session was held according to the procedures for remote litigation, where both parties wished to proceed with the case. This included the participation of (...) holder of National ID No. (...), as the representative of the plaintiff company, based on the attached founding contract, and the participation of the defendant's representative (...). holder of National ID No. (...), in his capacity as ZATCA's Representative under Authorization Letter No. (.....), Dated ../../... , issued by Deputy Governor for Legal Affairs. Having asked Plaintiff about his case, he responded that he admits what is mentioned in his statement of claim submitted to General Secretariat of Zakat, Tax and Customs Committees and confirms all facts contained therein. Having asked Defendant's representative about his reply to Plaintiff claims, he maintained his answers contained in his reply deposited in the case file. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Therefore, the Department ordered that parties to the Case temporarily leave the virtual room for deliberation and adjudication.

Grounds

After due examination and having reviewed the case file, the Value Added Tax Law issued by Royal Decree No. (M/113) dated 02/11/1438 AH, as amended, the Implementing Regulations of the Law issued by a decision of the Board of Directors of the General Authority for Zakat and Income No. (3839) dated 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 11/06/1441A H, the Common VAT Agreement of GCC States, and all relevant laws and regulations.

In form, since the plaintiff's representative aims in his case to request the annulment of the defendant's decision regarding the final assessment notice for the fourth quarter of 2019, and since this dispute is a tax dispute, it falls within the jurisdiction of the Tax Violations and Disputes Settlement Committee under Royal Decree No. (26040) dated 21/04/1441H. Since the case was filed by a person with standing and within the legally prescribed time frame, the Department is required to accept the case in terms of form.

On Merits: On merits, upon reviewing the case documents and the responses of both parties, it is clear that the dispute lies in the plaintiff's representative's request for the defendant to annul the final assessment notice for the fourth quarter of 2019. Accordingly, the Department finds the following:

First: Section on Domestic Sales Subject to the Basic Tax Rate: It is clear that the dispute lies in the final assessment notice for the fourth quarter of 2019, which subjected the amount of (264,259.26) SAR to the section of taxable sales at the basic tax rate, along with the tax imposed on it, due to the presence of revenues from activities unrelated to the business, based on Article (14) of the Implementing Regulations. The dispute centers around the plaintiff's representative's request for the defendant to annul the final assessment notice for the fourth quarter of 2019 and the fines associated with it. The Department found the following:

First: Section on Domestic Sales Subject to the Basic Tax Rate: It is clear that the dispute lies in the final assessment notice for the fourth quarter of 2019, which subjected the disputed amount to the section of taxable sales at the basic tax rate and the tax imposed on it due to revenues from subsidiary activities, based on Article (14) of the Implementing Regulations. The Department found that the issue in dispute is related to the taxation of scrap sales, consumable materials, and rental income that were made within the context of the economic activity, and thus subject to the basic tax rate under Article (14) of the Implementing Regulations. Since the disputed sales concern goods resulting from the plaintiff's economic activity based on their declaration, and as Article (14) of the Implementing Regulations stipulates tax on all taxable supplies of goods and services, it

does not consider presumed supplies made for non-economic activity purposes. Therefore, the Department affirms the validity of the defendant's action.

Second: fine for Incorrect Declaration and fine for Late Payment: It is clear that the dispute lies in the imposition of the late payment fine resulting from the final assessment notice for the tax period in question. Since the Department's opinion on the first issue led to the affirmation of the defendant's decision and the late payment fine resulted from this, and since related matters are subject to the same ruling, the Department deems the defendant's actions in imposing the fine and the late payment fine as correct.

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

Decision:

To dismiss Plaintiff case.

This decision was issued in the presence of both parties, and the Department set a deadline of thirty days for receiving a copy of the decision. The Department may extend the delivery deadline for an additional thirty days as it deems necessary. The parties have the right to appeal within thirty (30) days from the day following the specified date for receiving the decision. The decision will become final and enforceable after this period if no objection is submitted.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-1007
Case No. V-68940-2021

Key words:

Value Added Tax – Real Estate Supply – Discrepancy in Dates in Registration Certificate – Obligate Defendant to Pay the Value Added Tax

Abstract

Plaintiff ("Taxpayer") filed this Case requesting to obligate Defendant to pay the VAT resulting from the supplies of the property thereto.

The Department Found That:

Plaintiff maintained its statements that it is committed to registering for VAT and submitting its Tax Returns in accordance with the Law of Value Added Tax and its Implementing Regulations, and that the discrepancy in the dates on the two VAT registration certificates is due to a technical issue with ZATCA resulting from the addition of branches to Plaintiff, which is determined by Plaintiff's submission of VAT Returns for 2018. Also, Defendant did not challenge the validity of the new certificate submitted by Plaintiff, which proves the amount claimed.

The Department Decided To:

Obligate Defendant to pay Plaintiff an amount of (SAR 172,500).

Instruments:

- Tax Dispute and Violation Committee Procedures, promulgated by Royal Order No. (26040) of 21/04/1441 AH.
- Value Added Tax Law, promulgated by Royal Decree No. (M/113) of 02/11/1438 AH.
- Articles (49.8) and (59.1) of Implementing Regulations of Law of Value Added Tax issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, corresponding 14/11/2016 AD.
- The Common VAT Agreement of GCC States, November 2016 AD.

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, in which he stated the following:

"First: Plaintiff had sold properties to citizens who hold a certificate of entitlement for the state to bear the VAT for their first home ("Certificate of Entitlement of VAT for First-Time Homebuyers") in accordance with Royal Order No. (A/86) of 18/04/1439 AH. When Plaintiff tried to apply for that certificate and recover the VAT from the Ministry of Municipal Rural Affairs and Housing ("MOMAH"), it found that Defendant (..... Company, TIN .....) had used and benefited from those certificates, and had recovered the VAT for its benefit. Defendant however was not entitled to benefit from the Royal Order, as Plaintiff owns these properties and it is the party who sold them to the citizens. In addition, Plaintiff has declared these sales within its VAT Returns and has paid the amounts due to the Zakat, Tax, and Customs Authority ("ZATCA"), yet

it was unable to recover the VAT for citizens who hold a Certificate of Entitlement of VAT for First-Time Homebuyers in accordance with Order No. (A/86) of 18/04/1439 AH, which stipulates: "The Kingdom shall bear the VAT on behalf of Saudi Citizens for the purchase of their first home, up to the amount of (SAR 850,000)." Plaintiff hereby submits the joint press statement issued by ZATCA and MOMAH, which explains the method of recovering the VAT on the first home. Moreover, Article (5) of the Common VAT Agreement of the GCC States, stipulates: "1. A Supply of Goods means the transfer of ownership of such Goods or the right to dispose of the same as an owner; 2. A Supply of Goods includes the following transactions: a) disposal of Goods under an agreement that provides for the transfer of ownership of these Goods or the possibility of transferring the same at a date subsequent to the date of the agreement, which shall be no later than the date on which the Consideration is paid in full; b) granting rights in rem deriving from ownership giving the right to use real estate…," while Article (40.1) of the same VAT Agreement stipulates: "The Taxable Person is obligated to pay Tax due on taxable supplies of Goods and Services to the Competent Tax administration in the Member State in which the place of supply is located." The details of Plaintiff's sales, based on which Defendant used the certificate of VAT for First-Time Home Buyers, are as follows: (A table showing the names of the purchasers, their ID Nos., Title Deed Nos., date of transfer of ownership, first-time home certificate number, VAT amount borne by the Kingdom, and the tax claimed). Also, the transfer of ownership of the properties was made in Defendant's name, as the clients had obtained financing therefrom. Accordingly, Defendant did not pay the VAT amount to Plaintiff and used the said certificate or suspended the same in its favor. Furthermore, Decision No. (VSR-2020-56) of 23/12/2020 AD delivered by the Second Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh, which ruled to obligate Defendant "The Buyer" to pay the VAT amount to Plaintiff "The Seller," which was upheld by Decision No. (VA-2021-159) in Appeal No. (V-2021-39059) delivered by the First Appellate Department for Value Added and Excise Tax Violations and Disputes, which states: "Since the taxable person "The Buyer" in his capacity as the beneficiary, is exempt from bearing the VAT on the first home within the limits set forth in Royal Order No. (A/86) of 18/04/1439 AH, as it stipulates: "The Kingdom shall bear the VAT on behalf of Saudi Citizens for the purchase of their first home, up to the amount of (SAR 850,000); and since the Buyer is the party responsible for collecting the tax and remitting thereof to ZATCA; and since the price of the property in question regarding the VAT is (SAR 1,300,000); Therefore, the Department satisfies to obligate Appellant, in his capacity as the beneficiary, to pay the VAT on the amount that exceeded the limit stipulated in Royal Order No. (A/86) of 18/04/1439 AH, as the amount that exceeded that limit, according to the facts of the case, is (SAR 450,000) and the VAT due imposed thereon is (SAR 22,500)." In light of the above, and since the decisions delivered by the Appellate Department Committee are final, irrevocable, and cannot be challenged before any other judicial authority, in accordance with Article (47) of Tax Dispute and Violation Committee Procedures, and in order to ensure the stability of judicial principles and legal positions and the absence of discrepancies in decisions, Plaintiff requests the Department to accept its Case in form and to obligate Defendant to pay the VAT on those sales from which it has benefited by recovering the VAT from MOMAH unlawfully in the amount of (SAR 127,500).
Second: Requests: Obligate Defendant to pay the VAT in the amount of (SAR 127,500)."
On ……., .../.../..., the Department held its session via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant, wherein Mr. ……....., holder of National ID No. ....., appeared in his capacity as Plaintiff's Attorney, under POA No. .....; and Mr. ....., holder of National ID No. ....., appeared in his capacity as Defendant's Attorney, under POA No. ..... Having asked Plaintiff's Attorney regarding the Case, he maintained the statements contained in the statement of claim previously submitted to the General Secretariat of Tax Committees. Having asked Defendant's Attorney regarding his response, he stated that he has an oral response, not a written one. Therefore, the Department decided to allow Defendant to submit a written substantive response to Plaintiff's

claim and to postpone the consideration of the Case to .../.../..., at 01:00 PM, provided that Defendant submits its response before .../.../..., and to be reviewed by Plaintiff and submits its response before .../.../...

Defendant submitted a Reply that including the following:

"With reference to the above subject, and to Plaintiff's claim to obligate "Bidaya Finance" to pay the VAT amount for three (3) real estate sales, Defendant hereby clarifies the following:

First, Bidaya Finance did not pay the VAT amount to Plaintiff, as the sales transactions of the properties in question took place on 04/12/2018 AD, 08/07/2018 AD, and 11/04/2018 AD. Also, the effective date of Plaintiff's VAT registration was on 01/09/2019 AD, which proves that Plaintiff was not registered or liable to pay VAT at the time of these sales.

Second: Based on the Circular of the Saudi Central Bank regarding the mechanism for dealing with beneficiaries of the initiative of "VAT for First-Time Home Buyers" regarding the tax supply, issued on 25/09/2019 AD, which stipulates in Paragraph (2.1) "Responsibilities of Funding Agencies" that the tax amount shall not be paid in the event of a purchase from a seller not registered with ZATCA (The Circular of the Saudi Central Bank is attached herein), Defendant has paid the tax amount to ZATCA for the sale of the property to a client of "…… Company" through a finance lease contract. The purchase of the property was not included in the VAT Return, as the seller "Plaintiff" was not obligated to pay the VAT at the time of the sale. In addition, MOMAH's claiming of the tax amount of (SAR 580,000) was based on the above Paragraph (2.1) "Responsibilities of Funding Agencies" of the Circular of the Saudi Central Bank. Accordingly, the tax burden has been transferred from the seller "Plaintiff" to the buyer "Defendant" since it was not obligated to pay the tax amount at the time of the sale nor was registered for VAT at the time of concluding the sale.

Third: Requests: Dismiss Plaintiff's Case..

Plaintiff then submitted a Replication that included the following:

"First: With reference to the transcript of the Hearing No. ....., dated .../.../..., which included allowing Defendant to submit its substantive response, and after reviewing that response, Plaintiff clarifies that Defendant's statements are completely incorrect, and Plaintiff adheres to its earlier submissions. Plaintiff hereby presents its Reply No. (1), summarized as follows:

1. Defendant stated that the sales transactions of the properties in question took place on 04/12/2018 AD, 08/07/2018 AD, and 11/04/2018 AD, and that the effective date of Plaintiff's VAT registration was on 01/09/2019 AD. Accordingly, Plaintiff clarifies that it is registered for VAT on 17/12/2017 AD, and that the effective date of registration is 01/01/2018 AD, according to the registration certificate issued by ZATCA (a copy is attached herein), which proves that Defendant's statements are completely incorrect.

2. As for Defendant's statement in Paragraph (Second) of its Reply regarding the Circular of the Saudi Central Bank, Plaintiff clarifies that, having reviewed the said Circular, it found that Defendant violated Paragraph (1) of "Responsibilities of Funding Agencies" in the event that the purchase was made from a developer registered with ZATCA, as well as Paragraph (1) of "responsibilities of selling and development agencies registered with ZATCA, whether individuals or companies, specifically in the case of selling to a funding agency," as Defendant had used and benefited from those certificates, and had recovered the VAT for its benefit, which was confirmed by Defendant's attorney in the session held on 21/02/2022 AD; hence, it is a violation of the said Circular, the Law of Value Added Tax, and its Implementing Regulations.

3. As for Defendant's statement that the tax burden has been transferred from the seller "Plaintiff" to the buyer "Defendant" is unsubstantiated and is not supported by any evidence since neither the Law of Value Added Tax nor its Implementing Regulations includes any provision that supports the validity of Defendant's statement; rather, the Implementing Regulations of the Law of Value Added Tax stipulated in Article (14), concerning "Taxable Supplies in the Kingdom," which stipulates: "Without prejudice to the second article of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, Tax is applied to all Taxable Supplies of Goods and

services made in the Kingdom by a Taxable Person in the course of carrying out an economic activity……"

4. Defendant has used the certificate of VAT for First-Time Home Buyers and recovered the VAT for its benefit without having any legal capacity since it was not the party who sold the property, which was confirmed by Defendant's attorney in the session held on 21/02/2022 AD. Plaintiff requests the Department to obligate Defendant to pay the VAT in the amount of (SAR 127,500), noting that the Defendant was unable to recover these amounts through its Tax Returns according to the tax invoice attached to the Case file for each sale transaction and transfer of ownership.

On ……., .../.../..., the Department held its session via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant, wherein Mr. ……....., holder of National ID No. ....., appeared in his capacity as Plaintiff's Attorney, under POA No. .....; and Mr. ....., holder of National ID No. ....., appeared in his capacity as Defendant's Attorney, under POA No. ..... Defendant submitted its written substantive response as requested by the Department. Plaintiff also submitted a supplementary response to Defendant memorandum. Having asked Plaintiff's Attorney regarding the reason for the difference in dates in Plaintiff's VAT registration certificates, he requested a continuance to submit his response to that inquiry. Therefore, the Department decided to accept the request of Plaintiff's Attorney to provide an answer to the Department's inquiry, provided that Defendant submits its response before .../.../..., and to be reviewed by Defendant and submits its response if wanted before .../.../..., and to postpone the consideration of the Case to .../.../..., at 12:00 PM.

Plaintiff then submitted a Reply that included the following:

"With reference to the transcript of the Hearing No. ....., dated .../.../..., which included the Department inquiry on the reason for the difference in dates in Plaintiff's VAT registration certificates, Plaintiff hereby clarifies the following:

1. Plaintiff applied for VAT registration on 29/03/1443 AH, corresponding to 17/12/2017 AD.
2. ZATCA accepted the registration application, effective 01/01/2018 AD.
3. Plaintiff submitted its VAT Returns of 2018 within the prescribed statutory period. In light of the above, the attached exhibit includes the following data and documents: a) VAT registration application; b) VAT registration certificate indicating the effective date of registration; c) Tax Return receipt notices; and d) VAT Returns for 2018 AD. Accordingly, Plaintiff is committed to registering for VAT and submitting its Tax Returns in accordance with the Law of Value Added Tax and its Implementing Regulations. Moreover, the discrepancy in the dates on the two VAT registration certificates is due to a technical issue with ZATCA resulting from the addition of branches to Plaintiff, which is determined by Plaintiff's submission of VAT Returns for 2018. In light of the above, Plaintiff requests the Department to obligate Defendant to pay the VAT in the amount of (SAR 127,500), while reserving its right to present further responses and clarifications before the closure of pleadings.

On ……., .../.../..., the Department held its session via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant, wherein Mr. ……....., holder of National ID No. ....., appeared in his capacity as Plaintiff's Attorney, under POA No. .....; and Mr. ....., holder of National ID No. ....., appeared in his capacity as Defendant's Attorney, under POA No. ..... Having asked Defendant's Attorney regarding his response to Plaintiff's submission, he stated that at the time of the sale, Plaintiff's VAT registration date was not valid and that the statements in its supplementary memorandum were up to the discretion of the Department. Having asked parties thereto whether they had any further statements, they were satisfied with their earlier submissions. Therefore, the Department decided to adjourn the Case for deliberation in preparation for delivering a decision thereon.

Grounds

Having taken cognizance of the case papers and after due examination of its documents, and having taken cognizance of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 11/06/1441 AH, and the Common VAT Agreement of GCC States, as well as other relevant laws and regulations, the Department has decided to consider the Case.

In Form: Since Plaintiff filed the Case seeking to obligate Defendant to pay the VAT resulting from the supplies of the property thereto; and since this dispute is a Tax dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes under Royal Decree No. (26040) of 21/04/1441 AH; and since the Case was filed by a party having capacity and within the prescribed statutory period, it is then accepted in form.

On Merits: Having taken cognizance of documents included in Case file, requests, defenses, and pleas raised by parties thereto, the Department found that the dispute lies in Plaintiff's request to obligate Defendant to pay the VAT resulting from the supplies of the property thereto; and since Plaintiff maintained its statements that it is committed to registering for VAT and submitting its Tax Returns in accordance with the Law of Value Added Tax and its Implementing Regulations, and that the discrepancy in the dates on the two VAT registration certificates is due to a technical issue with ZATCA resulting from the addition of branches to Plaintiff, which is determined by Plaintiff's submission of VAT Returns for 2018; and since Defendant did not challenge the validity of the new certificate submitted by Plaintiff, which proves the amount claimed; Therefore, the Department satisfies to accept Plaintiff Case.

In light of the above grounds and in accordance with the provisions of the Common VAT Agreement of GCC States, the Law of Value Added Tax and its Implementing Regulations, and The Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided the following:

Decision:

Obligate Defendant (..... Company, C.R. No. .....) to pay Plaintiff (..... Company, C.R. No. .....) an amount of (SAR 172,500) (One hundred and seventy-two thousand and five hundred Saudi riyals.).

This Decision was delivered in the presence of Both Parties. The Department has set thirty (30) days for receipt of a copy of this Decision, and it may be extended to another same period as the Department deems appropriate. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision is deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(The Decision is deemed final and imperative by the lapse of the objection period under Article (40) of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-1012
Case No. V-67751-2021

Key words:
Value Added Tax – Late Registration Fine – Dismissal of Plaintiff's Case.

Abstract

Plaintiff ("Taxpayer") filed this Case to abolish Defendant's ("ZATCA") decision regarding the imposition of a fine for late registration for VAT.
The Department Found That:
Plaintiff has failed to provide evidence refuting Defendant's argument regarding the existence of a contract for an amount of (SAR 500,000) (Five hundred thousand Saudi riyals), which indicated the payment of a tax equivalent to (5%), which determines that revenues are expected to reach and exceed the "Mandatory Registration Threshold."
The Department Decided To:
Dismiss Plaintiff's Case.

Instruments:

- Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH.
- Value Added Tax Law, promulgated by Royal Decree No. (M/113) of 02/11/1438 AH
- Implementing Regulations of Law of Value Added Tax issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, corresponding 14/11/2016 AD.
- Common VAT Agreement of GCC States, November 2016 AD.

Facts:

Facts of the Case are summarized as follows: Mr. ……....., holder of National ID No. ....., has filed a statement of claim objecting to Decision No. ....., dated .../.../..., issued by the Zakat, Tax, and Customs Authority ("ZATCA") regarding the imposition of a fine for late registration for VAT in the amount of (SAR 10,000) and requested abolishment of Defendant's decision.
Having presented the statement of claim to Defendant it submitted a Reply that included the following:
"First: Defendant's Decision is presumed valid and sound, and the burden of proof falls on whoever claims the contrary.
Second: Having referred to the Plaintiff's date with ZATCA, it was found that the first registration for Value Added Tax was through an inspection campaign by ZATCA, and the registration was made according to the lease contracts as per Article (50.2) of the Common VAT Agreement for GCC states, which states that "the mandatory registration threshold shall be 375,000 Saudi Riyals."
Moreover, Article (79.9) of the Implementing Regulations of the Value Added Tax Law states that

"Notwithstanding any other provision of the Law and these Regulations a Person whose value of annual Supplies exceeds the Mandatory Registration Threshold but does not exceed one million (1,000,000) SAR is exempted from the requirement to register in the Kingdom until 1 January 2019. However, any application for such registration must be submitted that on or before 20 December 2018". Moreover, having referred to the data of Plaintiff's contracts, Defendant found that the total value of Plaintiff's annual contracts is higher than the "Mandatory Registration Threshold." In light of the above, the Defendant adheres to the validity and soundness of its procedure in question by imposing a late registration fine pursuant to Article (41) of the Law of Value Added Tax, which stipulates: "Any person who fails to apply for registration within the periods specified in the Regulations shall be subject to a fine of 10,000 riyals."
Third: Requests: In light of the above, Defendant requests the Department to uphold its decision and dismiss Plaintiff's Case for the stated grounds, while reserving its right to present further responses and clarifications before the closure of pleadings."
On ....., .../.../..., the Department held its session via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant, wherein Mr. ....., holder of National ID No. ....., appeared in his capacity as Plaintiff's Attorney, under POA No. .....; and Mr. ....., holder of National ID No. ....., appeared in his capacity as Defendant's "ZATCA" Representative, by virtue of Authorization No. ....., dated …/…/…, issued by ZATCA's Deputy Governor for Legal Affairs and Compliance. Having asked Plaintiff's Attorney regarding the Case, he maintained the statements contained in the statement of claim previously submitted to General Secretariat of Tax Committees. Having asked Defendant's Representative regarding his response, he maintained the statements contained in the Reply previously submitted to General Secretariat of Tax Committees. Having asked Parties hereto whether they had further statements, they were satisfied with their earlier submissions. Therefore, the Department decided to adjourn the hearing for deliberation in preparation for delivering a decision.

Grounds

Having taken cognizance of the case papers and after due examination of its documents, and having taken cognizance of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 11/06/1441 AH, and the Common VAT Agreement of GCC States, as well as other relevant laws and regulations, the Department has decided to consider the Case.
In Form: Since Plaintiff filed the Case to abolish Defendant's decision regarding the imposition of a fine for late registration for VAT; and since this dispute is a Tax dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes under Royal Decree No. (26040) of 21/04/1441 AH; and since the Case was filed by a party having capacity and within the prescribed statutory period, it is then accepted in form.
On Merits: Having taken cognizance of documents included in Case file, requests, defenses, and pleas raised by parties thereto, the Department found that the dispute lies in Plaintiff's request to abolish Defendant's decision regarding the imposition of a fine for late registration for VAT; and since Plaintiff has failed to provide evidence refuting Defendant's argument regarding the existence of a contract for an amount of (SAR 500,000) (Five hundred thousand Saudi riyals), which indicated the payment of a tax equivalent to (5%), which determines that revenues are expected to reach and exceed the "Mandatory Registration Threshold;" Therefore, the Department satisfies to dismiss Plaintiff's Case and uphold Defendant's decision regarding the imposition of the fine in question.

In light of the above grounds and in accordance with the provisions of the Common VAT Agreement of GCC States, the Law of Value Added Tax and its Implementing Regulations, and The Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided the following:

Decision:

Dismiss Plaintiff's Case.

This Decision was delivered in the presence of Both Parties. The Department has set thirty (30) days for receipt of a copy of this Decision, and it may be extended to another same period as the Department deems appropriate. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision is deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Committee for Determination of Tax Violations and Disputes The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-1014
Case No. V-72562-2021

Key words:
Value Added Tax – Final Assessment – Taxable Local Sales At Basic Rate – Fine for Submission of Incorrect Tax Return – Late Payment Fine.

Abstract

Plaintiff ("Taxpayer") filed this Case to abolish Defendant's ("ZATCA") decision regarding the Final Reassessment Notice for the fourth quarter of 2018 AD, wherein Plaintiff's objection included items (Taxable Local Sales at Basic Rate), (Late Payment Fine), and (Fine for Submission of Incorrect Tax Return).
The Department Found That:
As for item (Taxable Local Sales at Basic Rate), the sales in question relate to goods that took place due to Plaintiff carrying out an economic activity as per its Tax Return. Also, that the imposition of a tax shall be on all taxable supplies of goods and services and they are not considered nominal supplies that took place for purposes other than the economic activity.
As for items (Late Payment Fine) and (Fine for Submission of Incorrect Tax Return), the Department has decided to uphold Defendant's decision regarding item (Taxable Local Sales at Basic Rate) and that it is established that "The Resulting Occurrence Shall Take The Same Effect."
The Department Decided To:
Dismiss Plaintiff's Case.

Instruments:

- Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH.
- Value Added Tax Law promulgated by Royal Decree No. (M/113) of 02/11/1438 AH..
- Article (14) of Implementing Regulations of Law of Value Added Tax issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, corresponding 14/11/2016 AD. AD
- Common VAT Agreement of GCC states of November 2016 AD..

Facts:

Facts of the Case are summarized as follows: Mr. ……....., holder of National ID No. ....., in his capacity as Plaintiff's (....., C.R. No. .....) Legal Representative, has filed a statement of claim, in which he stated the following:
Plaintiff objects to Defendant's Decision No. ……, regarding the net tax due in the amount of (SAR 341,086.32) after the Reassessment, (a difference from the amount due of "SAR 4,116.16"), a fine for submission of an incorrect Tax Return in the amount of (SAR 206), and a late payment fine in the amount of (SAR 6,174.24) for the tax period of the fourth quarter of 2018 AD. In addition, Defendant's decision was issued in accordance with Article (14) of the Amended Implementing Regulations on 18/10/2020 AD. Also, the same Article was amended on

05/04/2020 AD, i.e., the Reassessment was based on an article that was amended after a Tax Return was submitted a year or more later, along with the imposition of a fine for submission of an incorrect Tax Return and a late payment fine in an amount one and a half times greater than the tax value. Moreover, Defendant based its decision on Article (14) of the Implementing Regulations of the Law of Value Added Tax, which stipulates: "Tax is applied to all Taxable Supplies of Goods and services made in the Kingdom by a Taxable Person in the course of carrying out an economic activity." Also, these revenues, estimated at SAR (82,323.02), are not related to Plaintiff's economic activity since its activity is transportation, as Article (15.4) of the same Implementing Regulations stipulates: "In cases where Goods are not used for the Economic Activity of a Taxable Person due to the destruction, theft or loss of those Goods the Taxable Person does not make a Nominal Supply of those Goods." Furthermore, these revenues resulted from the sale of damaged and worn-out parts and oil residues that are changed for trucks, as well as fully depreciated assets that are disposed of as scrap (a form explaining these amounts, based on which the Reassessment was made, is attached herein). In light of the above, Plaintiff requests the Department to accept its objection and discharge thereof from paying these amounts, as Plaintiff is striving to cooperate with Defendant and with the auditors, and to provide all documents clearly and all the necessary means for the examination process, which indicates Plaintiff's adherence to the Law and Regulations.

Having presented the statement of claim to Defendant it submitted a Reply that included the following:

"First: Having reviewed Plaintiff's statement of claim, Defendant found that it centers in items (Taxable Local Sales at Basic Rate), (Fine for Submission of Incorrect Tax Return), and (Late Payment Fine). Accordingly, Defendant hereby summarizes its response as follows:

- With regard to item (Taxable Local Sales at Basic Rate), Defendant clarifies that it had exercised its statutory right to verify the accuracy of Tax Returns set forth in Article (50) of the Law of Value Added Tax, which stipulates: "Subject to the provisions of Article (28) of the Law, the Authority shall be in charge of the administration, examination, assessment, and collection of tax, and shall, to this end, take any measures it deems fit," and in accordance with Article (26.1) thereof, which stipulates: "The Authority may conduct a tax assessment of a taxable person irrespective of the tax return filed by him," as well as Article (64) of its Implementing Regulations, which stipulates: "The Authority may make an assessment of the VAT obligations of a Person in respect of one or more Tax Periods. The Authority shall provide notification to the Taxable Person when it issues such an assessment." Accordingly, Defendant reassessed the Tax Return of the tax period in question, which resulted in the subjection of differences in revenues from the trial balance and those mentioned in the Tax Returns to tax, represented in sales of scrap and consumables. Defendant's decision was based on Article (14) of the Implementing Regulations of the Law of Value Added Tax stipulates: "Without prejudice to the second article of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, Tax is applied to all Taxable Supplies of Goods and services made in the Kingdom by a Taxable Person in the course of carrying out an economic activity….." Moreover, Defendant's decision does not invalidate Plaintiff's argument that these supplies are outside the scope of its economic activity, as the criterion for imposing the tax is whether these supplies took place within the context of carrying out an economic activity. In view of the type of goods in question, Defendant found that they represent sales of scrap parts, oils, and consumables, which are considered within the scope of Plaintiff's economic activity. Therefore, the Defendant adheres to the validity and soundness of its procedure.

- With regard to item (Fine for Submission of Incorrect Tax Return), the fine was imposed after Defendant found that Plaintiff's Tax Return was invalid pursuant to Article (42.1) of the Law of Value Added Tax, which stipulates: "Any person who files an incorrect tax return to the Authority, amends a tax return after being filed, or files any document with the Authority in relation to the tax due by him which results in an error in the calculation of the tax amount resulting in an amount

that is less than the tax due shall be subject to a fine equal to 50% of the difference between the calculated tax and the tax due."
- With regard to item (Late Payment Fine), having reviewed Plaintiff's Tax Return for the tax period in question, Defendant found that the Tax Return was invalid, which necessitated amending thereof and issuing the Final Assessment Notice, resulting in a difference in the value of the tax due that was not paid within the statutory deadline. Accordingly, Defendant imposed a late payment fine for the months following the tax period in question, in accordance with the provisions of Article (43) of the Law of Value Added Tax, which stipulates: "Any person who fails to pay the tax due within the period specified by the Regulations shall be subject to a fine equal to 5% of the amount of the unpaid tax for each month or part thereof for which the tax is not paid."
Second: Requests: In light of the above, Defendant requests the Department to uphold its decision and dismiss Plaintiff's Case for the stated grounds, while reserving its right to present further responses and clarifications before the closure of pleadings."
Plaintiff then submitted a Replication that included the following:
"First: Having reviewed Defendant's Reply, Plaintiff found that it includes Defendant's arguments to items (Taxable Local Sales at Basic Rate), (Fine for Submission of Incorrect Tax Return), and (Late Payment Fine). Accordingly, Plaintiff hereby summarizes its response as follows:
- With regard to item (Taxable Local Sales at Basic Rate), Plaintiff clarifies that Defendant based its decision on Article (14) of the Implementing Regulations of the Law of Value Added Tax, which stipulates: "Without prejudice to the second article of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, Tax is applied to all Taxable Supplies of Goods and services made in the Kingdom by a Taxable Person in the course of carrying out an economic activity, or received in the Kingdom by a Taxable Person in instances where the Reverse Charge Mechanism applies, as well as to Imports of Goods." Such Implementing Regulations was amended on 18/10/2020 AD. Also, the said Article was amended on 05/04/2020 AD. However, Defendant did not clarify the reason that the Reassessment was based on an article that was amended after a Tax Return was submitted a year or more later, along with the imposition of a fine for submission of an incorrect Tax Return and a late payment fine in an amount one and a half times greater than the tax value, as such Reassessment cannot be accepted since it was made based on the said Article and Implementing Regulations, which they were amended after the submission of the Tax Return. In addition, Defendant did not reply to Plaintiff's argument that these revenues resulted from the sale of damaged and worn-out parts and oil residues that are changed for trucks, as well as fully depreciated assets that are disposed of as scrap (a form explaining these amounts, based on which the Reassessment was made, is attached herein), in accordance with Article (15.4) of the Implementing Regulations of the Law of Value Added Tax, which stipulates: "In cases where Goods are not used for the Economic Activity of a Taxable Person due to the destruction, theft or loss of those Goods the Taxable Person does not make a Nominal Supply of those Goods." Moreover, Defendant based its decision on Article (14) of the Implementing Regulations of the Law of Value Added Tax, which stipulates: "Tax is applied to all Taxable Supplies of Goods and services made in the Kingdom by a Taxable Person in the course of carrying out an economic activity." Also, are not related to Plaintiff's economic activity since its activity is transportation, and its entire business is transportation operations. Furthermore, the disposal of damaged and worn-out parts and burnt oils to clean the work site, at small amounts, cannot be considered basic revenue, especially since no tax amounts were collected for their disposal.
- With regard to item (Fine for Submission of Incorrect Tax Return), Defendant stated that the fine was imposed pursuant to Article (42.1) of the Law of Value Added Tax, which stipulates: "Any person who files an incorrect tax return to the Authority, amends a tax return after being filed, or files any document with the Authority in relation to the tax due by him which results in an error in the calculation of the tax amount resulting in an amount that is less than the tax due shall be subject to a fine equal to 50% of the difference between the calculated tax and the tax

due." Plaintiff clarifies that it should not be penalized with the fine in question for revenues that were declared and explained, during the examinations, to Defendant as other revenues and stated in the income statement and Zakat Declaration. Moreover, how would Plaintiff be penalized with a fine for an amendment that took place on Article 14 of the Implementing Regulations after more than a year later?

- With regard to item (Late Payment Fine), Plaintiff clarifies that there is no delay in any amounts due to Defendant during the years preceding the tax and in every Return submitted to Defendant. Also, with regard to the Return in question, these revenues are not related to Plaintiff's activity according to the provisions of Article (15) of the Implementing Regulations of the Law of Value Added Tax; hence, there are no delayed amounts for which these fines are imposed by Defendant.

Second: Plaintiff requests the Department to accept its Case and return the amounts to its account for the stated grounds."

On ....., .../.../..., the Department held its session via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant, wherein Mr. ....., holder of National ID No. ....., appeared in his capacity as Plaintiff's Legal Representative, by virtue of its Articles of Association attached to 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 ZATCA's Deputy Governor for Legal Affairs and Compliance. Having asked Plaintiff's Representative regarding the Case, he maintained the statements contained in the statement of claim previously submitted to General Secretariat of Tax Committees. Having asked Defendant's Representative regarding his response, he maintained the statements contained in the Reply previously submitted to General Secretariat of Tax Committees. Having asked Parties hereto whether they had further statements, they were satisfied with their earlier submissions. Therefore, the Department decided to adjourn the hearing for deliberation in preparation for delivering a decision.

Grounds

Having taken cognizance of the case papers and after due examination of its documents, and having taken cognizance of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 11/06/1441 AH, and the Common VAT Agreement of GCC States, as well as other relevant laws and regulations, the Department has decided to consider the Case.

In Form: Since Plaintiff filed the Case to abolish Defendant's decision regarding the Final Reassessment Notice for the fourth quarter of 2018 AD; and since this dispute is a Tax dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes under Royal Decree No. (26040) of 21/04/1441 AH; and since the Case was filed by a party having capacity and within the prescribed statutory period, it is then accepted in form.

On Merits: Having taken cognizance of the case papers and documents and granted parties thereto sufficient time to present all arguments and documents, the Department found that the dispute lies in Plaintiff's objection to Defendant's decision regarding the Final Reassessment Notice for the fourth quarter of 2018 AD and the fines resulting therefrom, which included the following:

1. Item (Taxable Local Sales at Basic Rate):

Since the dispute lies in Plaintiff's objection to Defendant's decision regarding the Final Reassessment Notice for the fourth quarter of 2018 AD by subjecting the amount of (SAR 82,323.20) to the item in question, and imposing a tax in the amount of (SAR 4,116.16) due to the existence of revenues from subsidiary activities based on Article (14) of the Implementing Regulations of the Law of Value Added Tax; and since the basis for calculating the assessment as in the Final Assessment Notice was unclear, as it should clarify at least the details of the amounts

that were adjusted, the reasons for the adjustment, the documents relied upon, and the legal basis and statutory grounds on which they were relied upon for each amount; and since it is established that the dispute lies in subjecting sales of scrap and consumables that took place in the course of carrying out an economic activity to the basic tax rate based on the above-mentioned Article; and since the sales in question relate to goods that took place due to Plaintiff carrying out an economic activity as per its Tax Return; and since the said Article stipulates that the imposition of a tax shall be on all taxable supplies of goods and services and they are not considered nominal supplies that took place for purposes other than the economic activity; Therefore, the Department satisfies to uphold Defendant's decision regarding the item in question.

2. Item (Late Payment Fine):

Since the dispute lies in Plaintiff's objection to Defendant's decision regarding the imposition of a late payment fine, as a result of the Final Reassessment Notice for the fourth quarter of 2018 AD by subjecting the amount of (SAR 82,323.20) to (Taxable Local Sales at Basic Rate), and imposing a tax in the amount of (SAR 4,116.16) due to the existence of revenues from subsidiary activities based on Article (14) of the Implementing Regulations of the Law of Value Added Tax; and since this Department has decided to uphold Defendant's decision regarding item (Taxable Local Sales at Basic Rate); and since it is established that "The Resulting Occurrence Shall Take The Same Effect;" Therefore, the Department satisfies to uphold Defendant's decision regarding the item in question.

3. Item (Fine for Submission of Incorrect Tax Return):

Since the dispute lies in Plaintiff's objection to Defendant's decision regarding the imposition of a fine for submission of an incorrect Tax Return, as a result of the Final Reassessment Notice for the fourth quarter of 2018 AD by subjecting the amount of (SAR 82,323.20) to (Taxable Local Sales at Basic Rate), and imposing a tax in the amount of (SAR 4,116.16) due to the existence of revenues from subsidiary activities based on Article (14) of the Implementing Regulations of the Law of Value Added Tax; and since this Department has decided to uphold Defendant's decision regarding item (Taxable Local Sales at Basic Rate); and since it is established that "The Resulting Occurrence Shall Take The Same Effect;" Therefore, the Department satisfies to uphold Defendant's decision regarding the item in question.

In light of the above grounds and in accordance with the provisions of the Common VAT Agreement of GCC States, the Law of Value Added Tax and its Implementing Regulations, and The Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided the following:

Decision

Dismiss Plaintiff's Case.

This Decision was delivered in the presence of Both Parties. The Department has set thirty (30) days for receipt of a copy of this Decision, and it may be extended to another same period as the Department deems appropriate. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision is deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(The Decision is deemed final and imperative by the lapse of the objection period under Article (40) of Tax Dispute and Violation Committee Procedures)..

Committee for Determination of Tax Violations and Disputes The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-1034
Case No. R-55853-2021

Key words:
Value Added Tax – Refund of Real Estate Transaction Tax – Dismissal of Plaintiff's Case.

Abstract

Plaintiff filed this Case requesting to obligate Defendant to refund the RETT in the amount of (SAR 67,500) for purchasing a property worth (SAR 1,350,000) through real estate financing.
The Department Found That:
The amount in question was not issued as a result of a real estate transaction; rather, as a result of an unproven agreement, which is not within the jurisdiction of this Department. Also, Plaintiff's claim of the existence of an agreement was merely an unfounded statement for which there was no evidence.
The Department Decided To:
Dismiss Plaintiff's Case.

Instruments:

- Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH.
- Value Added Tax Law promulgated by Royal Decree No. (M/113) of 02/11/1438 AH..
- Implementing Regulations of Law of Value Added Tax issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, corresponding 14/11/2016 AD.
- Article (3/B) of The Real Estate Transaction Tax Implementing Regulations issued by the Ministerial Decision No. (712) of 15/02/1442 AH.
- Common VAT Agreement of GCC states of November 2016 AD.

Facts:

Facts of the Case are summarized as follows: Mr. ……....., holder of National ID No. ..... ("Plaintiff"), has filed a statement of claim against Mr. ……....., holder of National ID No. ..... ("Defendant"), which included obligating Defendant to refund the real estate transaction tax ("RETT"), in the amount of (SAR 67,500), as a result of Plaintiff's purchase of a property located in "…….. District" in North Obhur, in the amount of (SAR 1,050,000) from Defendant. However, Defendant did not submit a Reply despite being legally served with a notification of the Case filed against him.
On ....., .../.../..., the Department held its session via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant, wherein Mr. ....., holder of National ID No. ....., appeared in his own capacity. Neither Defendant nor his Representative appeared at the hearing. Having asked Plaintiff regarding the Case, he maintained the statements contained in the statement of claim previously submitted to General Secretariat of Tax Committees. He added that Defendant has paid him an amount of

(SAR 50,000) and is asking Defendant to pay only (SAR 17,000). Having asked Plaintiff whether there was an agreement between him and Defendant to bear the tax amount, he stated that there was only a verbal agreement. Therefore, the Department decided to adjourn the hearing for deliberation in preparation for delivering a decision.

Grounds

Having taken cognizance of the case papers and after due examination of its documents, and having taken cognizance of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 11/06/1441 AH, and the Common VAT Agreement of GCC States, as well as other relevant laws and regulations, the Department has decided to consider the Case.

In Form: Since Plaintiff filed the Case seeking to obligate Defendant to refund the VAT amount of (SAR 67,500) in accordance with the Law of Value Added Tax and its Implementing Regulations; and since this dispute is a Tax dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes under Royal Decree No. (26040) of 21/04/1441 AH; and since the Case was filed by a party having capacity and within the prescribed statutory period, it is then accepted in form.

On Merits: Having taken cognizance of the case papers and documents and granted parties thereto sufficient time to present all arguments and documents, the Department found that the dispute lies in Plaintiff's request to obligate Defendant to refund the RETT in the amount of (SAR 67,500); and since Clause (Fifth) of Royal Order No. (A/84) stipulates: "The Kingdom shall bear the Real Estate Transaction Tax on behalf of Saudi Citizens for the purchase of their first home, up to the amount of (SAR 1,000,000). The Minister of Finance, Chairman of the Board of Directors of the General Authority of Zakat and Tax, shall approve the necessary controls and procedures for this purpose;" and since Article (3/B) of Real Estate Transaction Tax Implementing Regulations stipulates: "The transaction shall be subjected to tax only once, when the unit of the parties to the transaction, real estate and the value is achieved. The Authority is entitled to determine the forms and cases to which this paragraph applies as the case may be;" and since Plaintiff's claim is to obligate Defendant to refund the RETT in the amount of (SAR 67,500), for purchasing a property worth (SAR 1,350,000) through real estate financing under Title Deed No. ....., dated .../.../..., corresponding to .../.../..., where Plaintiff agreed with Defendant on the value of the property (SAR 1,050,000) in order to return the amount of (SAR 300,000), as the real estate financier paid Defendant the full value of the property worth (SAR 1,350,000), while Defendant returned the excess amount less the full tax value of (SAR 67,500), which is equivalent to (SAR 232,500), according to Check No. No. ....., dated .../.../..., and obtained a certificate of VAT for First-Time Home Buyer, equivalent to (SAR 50,000); and since any legal transaction transferring ownership of the property or its possession for the purpose of owning the same or acquiring its benefit requires the imposition of a tax at a rate of (5%) of the total value of the transaction in the properties regardless of their condition, form, or use at the time of that transaction, except for matters exempted in Royal Order No. (A/84) or Article (3) of RETT Implementing Regulations; and since the real estate transaction in question has occurred between three parties, wherein Defendant sold the property to the real estate financier for (SAR 1,350,000), and then the real estate financier resold the same to Plaintiff, which is considered subject to a real estate transaction tax of (SAR 17,500) since it is exempted under Royal Order No. (A/84) for a limit of (SAR 1,000,000) and Article (3) of RETT Implementing Regulations, indicating that there is no direct real estate transaction between Plaintiff and Defendant, despite Defendant's lack of response; thus, the amount in question was not issued as a result of a real estate transaction; rather, as a result of an unproven agreement, which is not within the jurisdiction of this Department; and since

Plaintiff's claim of the existence of an agreement was merely an unfounded statement for which there was no evidence, which necessitates dismissing Plaintiff's Case.
In light of the above grounds and in accordance with the provisions of the Common VAT Agreement of GCC States, the Law of Value Added Tax and its Implementing Regulations, and The Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided the following:

Decision:

Dismiss Plaintiff's Case.
This Decision was delivered in the presence of Both Parties. The Department has set thirty (30) days for receipt of a copy of this Decision, and it may be extended to another same period as the Department deems appropriate. This Decision is deemed final and enforceable under Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions..

Committee for Determination of Tax Violations and Disputes The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-1036
Case No. R-58127-2021

Key words:
Value Added Tax – Final Assessment – Taxable Procurement At Basic Rate – Late Payment Fine.

Abstract

Plaintiff ("Taxpayer") filed this Case moving to abolish Defendant's ("ZATCA") decision regarding the reconsideration of the Final Reassessment for the first quarter of 2020 AD, wherein Plaintiff's objection included items (Taxable Local Procurement at Basic Rate), (Late Payment Fine), and (Fine for Submission of Incorrect Tax Return).
The Department Found That:
As for item (Taxable Procurement at Basic Rate), Defendant excluded all procurements of the tax period in question due to Plaintiff's failure to submit the supporting documents (tax invoices) proving the deduction, in accordance with Article (49) of the Implementing Regulations of the Law of Value Added Tax and Article (48) of the Common VAT Agreement of GCC States
As for item (Late Payment Fine), the dispute lies in Plaintiff's objection to Defendant's decision regarding the imposition of a late payment fine, as a result of the Final Reassessment Notice for the first quarter of 2020 AD. Also, the fine in question has been imposed due to Plaintiff's failure to pay the due tax within the statutory period, which resulted from the Reassessment of the tax period for the first quarter of 2020 AD, indicating Plaintiff's failure to comply with Article (59.1) of the Implementing Regulations of the Law of Value Added Tax.
As for item (Fine for Submission of Incorrect Tax Return), the dispute lies in Plaintiff's objection to Defendant's decision regarding the imposition of a fine for submission of an incorrect Tax Return, as a result of the Final Reassessment Notice for the first quarter of 2020 AD. Also, the Department decided to uphold Defendant's decision regarding item (Taxable Local Sales at Basic Rate) and that it is established that "The Resulting Occurrence Shall Take The Same Effect.
The Department Decided To:
Dismiss Plaintiff's Case.

Instruments:

- Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. (26040) of 21/04/1441 AH.
- Articles (42.1) and (34) of Law of Value Added Tax, promulgated by Royal Decree No. (M/113) of 02/11/1438 AH.
- Articles (49.8) and (59.1) of Implementing Regulations of Law of Value Added Tax issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, corresponding 14/11/2016 AD.
- Article (48.1) of Common VAT Agreement of GCC states of November 2016 AD..

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 ("ZATCA"/ "Defendant") regarding the Final Reassessment for the tax period for the first quarter of 2020 AD and the fine resulting therefrom, and requested abolishment of Defendant's decision Having presented the statement of claim to Defendant it submitted a Reply that included the following:

1. Item (Taxable Local Procurement at Basic Rate):

Defendant found that Plaintiff had declared purchases did not represent correct tax invoices (some of which were in the form of instruments) and others were from suppliers not registered for VAT, which invalidates Plaintiff's entitlement to deduction for failure to meet the deduction conditions set forth in Article (48) of the Common VAT Agreement of GCC States and Article (10.7) of the Implementing Regulations of the Law of Value Added Tax.

2. Item (Late Payment Fine):

Having reviewed Plaintiff's Tax Return, Defendant found that it was invalid, which necessitated amending thereof and issuing the Final Assessment Notice, resulting in a difference in the value of the tax due that was not paid within the statutory deadline. Accordingly, Defendant imposed a late payment fine for the months following the tax period in question, in accordance with the provisions of Article (43) of the Law of Value Added Tax.

3. Item (Fine for Submission of Incorrect Tax Return):

The fine was imposed after Defendant found that Plaintiff's Tax Return was incorrect according to the Final Assessment Notice, based on Article (42.1) of the Law of Value Added Tax. Defendant concluded by requesting dismissal of Plaintiff's Case.

Plaintiff then submitted a Replication that included the following:

Plaintiff clarifies that the e-Government Office made the Tax Returns and did not inform Plaintiff regarding how the Law works. Also, Plaintiff does not have an establishment or a commercial registration. Plaintiff sold two plots of land, and my loss amounted to more than (SAR 500,000). Plaintiff then purchased another plot of land and sold it for a difference of approximately (SAR 100,000). In 2019, Plaintiff headed to the e-Government Office and registered for VAT under TIN (……) and paid the VAT on the price difference. In the first quarter of 2020, Plaintiff sold a plot of land for (SAR 200,000). To Plaintiff's knowledge, if the purchase value does not exceed (SAR 375,000) there is no VAT due; however, a VAT in the amount of (SAR 10,000) was charged to Plaintiff. In addition, Plaintiff purchased a plot of land for (SAR 560,000), and paid its tax to the buyer. When Plaintiff contacted the buyer, he stated that he paid the tax on his entire sales for the same quarter. Plaintiff, however, did not receive a receipt of payment from the buyer, as he stated that he owns multiple properties and paid the tax on his entire sales for the same quarter. Plaintiff also purchased a traditional house; however, Plaintiff does not know whether the buyer paid its tax. To Plaintiff's knowledge, the tax is collected from the seller, similar to Plaintiff's payment of the tax on two plots of land from his own account. Plaintiff has a balance of approximately (SAR 33,000) for selling two plots of land at a loss. Moreover, the submission of an incorrect Tax Return was due to Plaintiff's ignorance, as he contacted Defendant several times, wherein Defendant asked for purchase invoices. Plaintiff said that the seller is responsible for these invoices. Plaintiff also asked Defendant whether there are any fines imposed, out of fear and ignorance of the provisions of the Law, wherein Defendant replied that there are no current violations. However, Plaintiff was surprised by fines being imposed in the amount of (SAR 27,000), which is an amount that Plaintiff cannot afford or collect as a result of the submission of the incorrect Tax Return and a delay in payment of VAT for selling land in the amount of (SAR 200,000), which Plaintiff paid its tax upon being notified by Defendant. Furthermore, the purchased land in the amount of (SAR 560,000) is currently suspended due to its inclusion within the state's Public Investment Fund. In light of the above, Plaintiff requests the Department to drop the imposed fines since the current real estate has been replaced by real estate transactions, which is a clear system that has addressed the previous matter.

On ..., .../.../..., the Department held its session via video conference in accordance with the procedures for remote video litigation. Having called parties to Case, Mr. ……....., holder of National ID No. ....., appeared in his capacity as Defendant's ("ZATCA") Representative, by virtue of Authorization No. ....., dated …/…/…, issued by ZATCA's Deputy Governor for Legal Affairs and Compliance. Neither Plaintiff nor his Representative appeared at the hearing, despite being legally served with its date the method of its convention. Having informed Defendant's Representative of Plaintiff's absence, he requested to proceed with the consideration of the Case and the issuance of a decision thereon. Therefore, the Department decided to adjourn the hearing for deliberation in preparation for delivering a decision.

Grounds

Having taken cognizance of the case papers and after due examination of its documents, and having taken cognizance of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 11/06/1441 AH, and the Common VAT Agreement of GCC States, as well as other relevant laws and regulations, the Department has decided to consider the Case.

In Form: Since Plaintiff filed the Case to abolish Defendant's decision regarding the Final Reassessment for the tax period for the first quarter of 2020 AD and the fines resulting therefrom, in accordance with the Law of Value Added Tax and its Implementing Regulations; and since this dispute is a Tax dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes under Royal Decree No. (26040) of 21/04/1441 AH; and since the Case was filed by a party having capacity and within the prescribed statutory period, it is then accepted in form.

On Merits: Having taken cognizance of the case papers and documents and granted parties thereto sufficient time to present all arguments and documents, the Department found that the dispute lies in Plaintiff's objection to Defendant's decision regarding the Final Reassessment for the tax period for the first quarter of 2020 AD and the fines resulting therefrom, which included the following:

1. Item (Taxable Local Procurement at Basic Rate):

Since the dispute lies in Plaintiff's objection to Defendant's decision regarding the Final Reassessment for the tax period for the first quarter of 2020 AD; and since Article (48.1) of the Common VAT Agreement of GCC States stipulates: "For purposes of exercising the right of deduction, the Taxable Person must hold the following documents: a) the Tax Invoice received pursuant to the provisions of this Agreement; b) the customs documents proving that he imported the Goods in accordance with the Common Customs Law;" and since Article (49.8) of the Implementing Regulations of the Law of Value Added Tax stipulates: "A deduction of Input Tax may be made by a Taxable Person in a Tax Period subsequent to that Tax Period including the date of Supply, provided that the Taxable Person remains eligible to make such deduction under the other provisions of these Regulations. Input Tax may not be deducted in any period which falls more than five calendar years after the calendar year in which the Supply takes place;" and since the dispute lies in Plaintiff's objection to Defendant's Decision No. ...., dated .../.../..., corresponding to .../.../..., regarding the Final Assessment Notice, which shows that Defendant's exclusion of all procurements of the tax period in question due to Plaintiff's failure to submit the supporting documents (tax invoices) proving the deduction, in accordance with Article (49) of the Implementing Regulations of the Law of Value Added Tax and Article (48) of the Common VAT Agreement of GCC States; and since Plaintiff has failed to provide evidence refuting Defendant's decision; Therefore, the Department satisfies to dismiss Plaintiff's Case and uphold Defendant's decision as to the conclusion it had regarding the item in question.

2. Item (Late Payment Fine):
Since the dispute lies in Plaintiff's objection to Defendant's decision regarding the imposition of a late payment fine, as a result of the Final Reassessment Notice for the first quarter of 2020 AD; and since Article (59.1) of the Implementing Regulations of the Law of Value Added Tax stipulates: "Payment of Tax due by a Taxable Person in respect of a Tax Period shall be made at the latest by the last day of the month following the end of that Tax Period;" and since Article (43) of the Law of Value Added Tax stipulates: "Any person who fails to pay the tax due within the period specified by the Regulations shall be subject to a fine equal to 5% of the amount of the unpaid tax for each month or part thereof for which the tax is not paid;" and since the fine in question has been imposed due to Plaintiff's failure to pay the due tax within the statutory period, which resulted from the Reassessment of the tax period for the first quarter of 2020 AD, indicating Plaintiff's failure to comply with Article (59.1) of the Implementing Regulations of the Law of Value Added Tax; and since this Department has decided to uphold Defendant's decision regarding item (Taxable Local Sales at Basic Rate) in accordance with Article (43) of the Law of Value Added Tax, as previously explained; Therefore, the Department satisfies to uphold Defendant's decision as to the conclusion it had regarding the item in question.
3. Item (Fine for Submission of Incorrect Tax Return):
Since the dispute lies in Plaintiff's objection to Defendant's decision regarding the imposition of a fine for submission of an incorrect Tax Return, as a result of the Final Reassessment Notice for the first quarter of 2020 AD; and since Article (42.1) of the Law of Value Added Tax stipulates: "Any person who files an incorrect tax return to the Authority, amends a Tax Return after being filed, or files any document with the Authority in relation to the tax due by him which results in an error in the calculation of the tax amount resulting in an amount that is less than the tax due shall be subject to a fine equal to (50%) of the difference between the calculated tax and the tax due;"
and since the fine in question resulted from Defendant's amendment of Plaintiff's Tax Return for the tax period for the first quarter of 2020 AD; and since this Department has decided to uphold Defendant's decision regarding item (Taxable Local Sales at Basic Rate); and since it is established that "The Resulting Occurrence Shall Take The Same Effect;" Therefore, the Department satisfies to uphold Defendant's decision as to the conclusion it had regarding the item in question.
In light of the above grounds and in accordance with the provisions of the Common VAT Agreement of GCC States, the Law of Value Added Tax and its Implementing Regulations, and The Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided the following:

Decision:

Dismiss Plaintiff's Case.
This Decision was delivered in the presence of Both Parties. The Department has set thirty (30) days for receipt of a copy of this Decision, and it may be extended to another same period as the Department deems appropriate. This Decision is deemed final and enforceable under Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions..

Key words:
Value Added Tax – Refund of Real Estate Transaction Tax – Dismissal of Plaintiff's Case.

Abstract

Plaintiff filed this Case requesting to obligate Defendant to refund the RETT in the amount of (SAR 19,300).
The Department Found That:
Clause (Fifth) of Royal Order No. (A/84) stipulates: "The Kingdom shall bear the Real Estate Transaction Tax on behalf of Saudi Citizens for the purchase of their first home, up to the amount of (SAR 1,000,000)." Also, it is established that the request to recover the RETT should be submitted by Plaintiff if such request has valid grounds, and that if Plaintiff's claim is proven to be valid, that request will be dismissed since Defendant has no connection to his claim.
The Department Decided To:
Dismiss Plaintiff's Case.

Instruments:

- Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH.
- Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH.
- Implementing Regulations of Law of Value Added Tax issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, corresponding 14/11/2016 AD.
- Article (3/B) of The Real Estate Transaction Tax Implementing Regulations issued by the Ministerial Decision No. (712) of 15/02/1442 AH.
- Common VAT Agreement of GCC states of November 2016 AD..

Facts:

Facts of the Case are summarized as follows: Mr. ……....., holder of National ID No. ..... ("Plaintiff"), has filed a statement of claim against Mr. ……....., holder of National ID No. ..... ("Defendant"), which included obligating Defendant to refund the real estate transaction tax ("RETT") in the amount of (SAR 19,300), as a result of Plaintiff's purchase of an Agricultural Plot No. ....., of Layout No. ....., located in "…….. Governorate." However, Defendant did not submit a Reply despite being legally served with a notification of the Case filed against him.
On Tuesday, 17/05/2022 AD, the Department held its session via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant. Having called Parties to the Case, neither Plaintiff nor Defendant appeared at the hearing. Since the Case is ripe for adjudication, the Department has therefore decided to adjourn the session for deliberation in preparation for delivering a decision.

Grounds

Having taken cognizance of the case papers and after due examination of its documents, and having taken cognizance of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 11/06/1441 AH, and the Common VAT Agreement of GCC States, as well as other relevant laws and regulations, the Department has decided to consider the Case.

In Form: Since Plaintiff filed the Case seeking to obligate Defendant to refund the VAT amount of (SAR 19,300) in accordance with the Law of Value Added Tax and its Implementing Regulations; and since this dispute is a Tax dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes under Royal Decree No. (26040) of 21/04/1441 AH; and since the Case was filed by a party having capacity and within the prescribed statutory period, it is then accepted in form.

On Merits: Having taken cognizance of the case papers and documents and granted parties thereto sufficient time to present all arguments and documents, the Department found that the dispute lies in Plaintiff's request to obligate Defendant to refund the RETT in the amount of (SAR 67,500); and since Clause (Fifth) of Royal Order No. (A/84) stipulates: "The Kingdom shall bear the Real Estate Transaction Tax on behalf of Saudi Citizens for the purchase of their first home, up to the amount of (SAR 1,000,000). The Minister of Finance, Chairman of the Board of Directors of the General Authority of Zakat and Tax, shall approve the necessary controls and procedures for this purpose;" and since Article (3/B) of Real Estate Transaction Tax Implementing Regulations stipulates: "The transaction shall be subjected to tax only once, when the unit of the parties to the transaction, real estate and the value is achieved. The Authority is entitled to determine the forms and cases to which this paragraph applies as the case may be;"and since Plaintiff's claim is to obligate Defendant to refund the RETT; and since it is established that the request to recover the RETT should be submitted by Plaintiff if such request has valid grounds, and that if Plaintiff's claim is proven to be valid, that request will be dismissed since Defendant has no connection to his claim.

In light of the above grounds and in accordance with the provisions of the Common VAT Agreement of GCC States, the Law of Value Added Tax and its Implementing Regulations, and The Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided the following:.

Decision:

Dismiss Plaintiff's Case.

This Decision was delivered in the presence of Both Parties. The Department has set thirty (30) days for receipt of a copy of this Decision, and it may be extended to another same period as the Department deems appropriate. This Decision is deemed final and enforceable under Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions..

Committee for Determination of Income Tax Violations and DisputesThird Department for Determination of Income Tax Violations and Disputes In Riyadh

Decision No. VD-2022-1038
Case No. R-72632-2021

Key words:
Value Added Tax – Late Payment Fine – Acceptance of Plaintiff's Case – Cancelation of Fine.

Abstract

Plaintiff ("Taxpayer") filed this Case moving to abolish Defendant's ("ZATCA") decision regarding the imposition of a late payment fine for the tax period for the first quarter of 2020 AD.
The Department Found That:
Defendant has delayed in making its amendment, and it is established that Plaintiff has paid the tax upon the issuance of Defendant's decision and before the end of the month. Also, Defendant did not impose a fine for submission of incorrect Tax Return.
The Department Decided To:
Accept Plaintiff's Case and cancel the late payment fine in question.

Instruments:

- Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. (26040) of 21/04/1441 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) of 02/11/1438 AH..
- Implementing Regulations of Law of Value Added Tax issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, corresponding 14/11/2016 AD.
- Common VAT Agreement of GCC states of November 2016 AD.

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 ("ZATCA"/ "Defendant") regarding the imposition of a late payment fine for the tax period for the first quarter of 2020 AD and requested cancellation of the fine in question.
Having presented the statement of claim to Defendant it submitted a Reply that included the following:
"Defendant clarifies that it had imposed the late payment fine as a result of Plaintiff's failure to pay the tax due within the statutory period, pursuant to Article (59.1) of the Implementing Regulations of the Law of Value Added Tax and Article (43) of the Law of Value Added Tax, as the final deadline to pay the tax due for the tax period in question was 30/04/2020 AD. Defendant concluded by requesting dismissal of Plaintiff's Case."
On ....., .../.../..., the Department held its session via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant, wherein Mr. ....., holder of National ID No. ....., appeared in his own capacity; and Mr. ....., holder of National ID No. ....., appeared in his capacity as Defendant's "ZATCA" Representative, by virtue of Authorization No. ....., dated .../.../..., issued by ZATCA's Deputy Governor for Legal Affairs and Compliance. Having asked Plaintiff regarding the Case, he

maintained the statements contained in the statement of claim previously submitted to General Secretariat of Tax Committees. Having asked Defendant's Representative regarding his response, he maintained the statements contained in the Reply previously submitted to General Secretariat of Tax Committees. Having asked Parties hereto whether they had further statements, they were satisfied with their earlier submissions. Therefore, the Department decided to adjourn the hearing for deliberation in preparation for delivering a decision.

Grounds

Having taken cognizance of the case papers and after due examination of its documents, and having taken cognizance of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 11/06/1441 AH, and the Common VAT Agreement of GCC States, as well as other relevant laws and regulations, the Department has decided to consider the Case.

In Form: Since Plaintiff filed the Case to abolish Defendant's decision regarding the imposition of a late payment fine for the tax period for the first quarter of 2020 AD, in accordance with the Law of Value Added Tax and its Implementing Regulations; and since this dispute is a Tax dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes under Royal Decree No. (26040) of 21/04/1441 AH; and since the Case was filed by a party having capacity and within the prescribed statutory period, it is then accepted in form.

On Merits: Having taken cognizance of the case papers and documents and granted parties thereto sufficient time to present all arguments and documents, the Department found that Defendant has delayed in making its amendment; and since it is established that Plaintiff has paid the tax upon the issuance of Defendant's decision and before the end of the month; and since Defendant did not impose a fine for submission of incorrect Tax Return; Therefore, the department satisfies to cancel the late payment fine in question.

In light of the above grounds and in accordance with the provisions of the Common VAT Agreement of GCC States, the Law of Value Added Tax and its Implementing Regulations, and The Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided the following::

Decision:

Accept Plaintiff's Case and cancel the late payment fine in question.

This Decision was delivered in the presence of Both Parties. The Department has set thirty (30) days for receipt of a copy of this Decision, and it may be extended to another same period as the Department deems appropriate. This Decision is deemed final and enforceable under Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Committee for Determination of Tax Violations and Disputes The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-1039
Case No. V-63683-2021

Key words:
Value Added Tax – Refund of Value Added Tax – Dismissal of Plaintiff's Case.

Abstract

Plaintiff filed this Case requesting to obligate Defendant to refund the VAT amount of (SAR 38,500).
The Department Found That:
Plaintiff's registration certificate has shown that it was issued on a date subsequent to the date of the sale, indicating that Plaintiff was not authorized to collect the tax at the time of the sale and issue a tax invoice for the tax amount, and by extension, was not entitled to collect the same from the buyer.
The Department Decided To:
Dismiss Plaintiff's Case.

Instruments:

- Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH.
- Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH.
- Article (14) of Implementing Regulations of Law of Value Added Tax issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, corresponding 14/11/2016 AD.
- Articles (25) and (30) of Common VAT Agreement of GCC States, November 2016 AD.

Facts:

Facts of the Case are summarized as follows: Mr. ……....., holder of National ID No. ..... ("Plaintiff"), has filed a statement of claim against …….. Bank, C.R. No..... ("Defendant"), which included obligating Defendant to refund the Value Added Tax ("VAT") amount of (SAR 38,500), as a result of supplying real estate in the amount of (SAR 770,000), represented in Apartment No. (2/2) of Residential Plot No. ....., of Layout No. ....., located in "…….. City."
On …….., .../.../..., the Department held its session via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant, wherein Mr. ……....., holder of National ID No. ....., appeared in his capacity as Plaintiff's Attorney, under POA No. .....; and Mr. ....., holder of National ID No. ....., appeared in his capacity as Defendant's Attorney, under POA No. ..... Having asked Plaintiff's Attorney regarding the Case, he maintained the statements contained in the statement of claim previously submitted to the General Secretariat of Tax Committees. Having asked Defendant's Attorney regarding his response, he stated that he had only recently seen Plaintiff's statement of claim and requested a continuance to provide his response thereto. Therefore, the Department decided to postpone the consideration of the Case to .../.../..., at 12:00 PM, provided that Defendant's Attorney submits his response before .../.../...

Defendant submitted a Replication that included the following:
"The Case is inadmissible in form due to the fact that the ownership of the property in question has been transferred from Plaintiff to Defendant's Customer ".....," while Plaintiff filed his case against Defendant, which in turn is merely a financier to the Customer "....." In addition, according to Article (76) of the Law of Civil Procedure, the Case should be filed by a party having capacity, a condition not met by Plaintiff. Therefore, Defendant requests dismissal of Plaintiff's Case for being filed without capacity.
On ……., .../.../..., the Department held its session via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant, wherein Mr. ……....., holder of National ID No. ....., appeared in his capacity as Plaintiff's Attorney, under POA No. .....; and Mr. ....., holder of National ID No. ....., appeared in his capacity as Defendant's Attorney, under POA No. ..... Having asked Parties hereto whether they had further statements, they responded with denial. Therefore, the Department decided to adjourn the hearing for deliberation in preparation for delivering a decision.

Grounds

Having taken cognizance of the case papers and after due examination of its documents, and having taken cognizance of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 11/06/1441 AH, and the Common VAT Agreement of GCC States, as well as other relevant laws and regulations, the Department has decided to consider the Case.
In Form: Since Plaintiff filed the Case seeking to obligate Defendant to refund the VAT amount of (SAR 38,500) in accordance with the Law of Value Added Tax and its Implementing Regulations; and since this dispute is a Tax dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes Income under Royal Decree No. (26040) of 21/04/1441 AH; and since the Case was filed by a party having capacity and within the prescribed statutory period, it is then accepted in form.
On Merits: Having taken cognizance of the case papers and documents and granted parties thereto sufficient time to present all arguments and documents, the Department found that the dispute lies in Plaintiff's request to obligate Defendant to refund the VAT amount of (SAR 38,500); and since Article (25.1) of the Common VAT Agreement of GCC States stipulates: "Tax shall be applied at the standard rate of (5%) of the value of the Supply or the value of Imports, unless this Agreement provides for an exemption or the zero-rate on such supplies;" and since Article (14) of the Implementing Regulations of Law of Value Added Tax concerning "Taxable Supplies in the Kingdom," stipulates: "Without prejudice to the second article of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, Tax is applied to all Taxable Supplies of Goods and services made in the Kingdom by a Taxable Person in the course of carrying out an economic activity, or received in the Kingdom by a Taxable Person in instances where the Reverse Charge Mechanism applies, as well as to Imports of Goods;" and since Plaintiff is requesting Defendant to pay the VAT amount of (SAR 38,500) for the sale of an apartment on 25/10/1441 AH, corresponding to 17/06/2020 AD, indicating that the "Certificate of Entitlement of VAT for First-Time Homebuyers" was found to be pending for Defendant; and since the facts of the Case have shown that Defendant is the party entitled to the certificate since it is the financier of the property to the buyer ".....;" however, Defendant should have paid the tax to the seller for the first supply, as the original burden of payment of tax as an indirect tax on received goods and services is on customer or buyer (the recipient of the goods and services), except if excluded by virtue of a specific provision from paying the tax on the goods and services received under specific cases mentioned in Article (30) of the Common VAT Agreement of GCC States; and since Plaintiff's

registration certificate has shown that it was issued on a date subsequent to the date of the sale, indicating that Plaintiff was not authorized to collect the tax at the time of the sale and issue a tax invoice for the tax amount, and by extension, was not entitled to collect the same from the buyer; Therefore, the department satisfies to dismiss Plaintiff's Case.

In light of the above grounds and in accordance with the provisions of the Common VAT Agreement of GCC States, the Law of Value Added Tax and its Implementing Regulations, and The Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided the following:

Decision:

Dismiss Plaintiff's Case.

This Decision was delivered in the presence of Both Parties. The Department has set thirty (30) days for receipt of a copy of this Decision, and it may be extended to another same period as the Department deems appropriate. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision s deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(The Decision is deemed final and imperative by the lapse of the objection period under Article (40) of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-1040
Case No. V-55059-2021

Key words:
Value Added Tax – Final Reassessment – Dismissal of Plaintiff's Case.

Abstract

Plaintiff ("Taxpayer") filed this Case moving to abolish Defendant's ("ZATCA") decision regarding the Final Reassessment for the tax period for the first quarter of 2019 AD and the fines resulting therefrom.
The Department Found That:
Plaintiff has failed to provide evidence that he was not included within the (75%) exemption rate.
The Department Decided To:
Dismiss Plaintiff's Case.

Instruments:

- Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH.
- Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH.
- Implementing Regulations of Law of Value Added Tax issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, corresponding 14/11/2016 AD.
- Common VAT Agreement of GCC states of November 2016 AD.

Grounds

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 ("ZATCA"/ "Defendant") regarding the Final Reassessment for the tax period for the first quarter of 2019 AD and the fine resulting therefrom, and requested abolishment of Defendant's decision.
Having presented the statement of claim to Defendant it submitted a Reply that included the following:
"Defendant clarifies that Plaintiff has submitted his statement of claim without stating any legal grounds that support his claims. In addition, the requirements for accepting the Case in form are that the statement of claim must include the subject of the claim, requests, and legal grounds, pursuant to Article (41) of the Law of Civil Procedure and Article (8) of The Tax Dispute and Violation Committee Procedures. Accordingly, Plaintiff's claim does not meet its legal requirements. Defendant's representative concluded by requesting dismissal of Plaintiff's Case in form.
On ....., .../.../..., the Department held its session via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant, wherein Mr. ....., holder of National ID No. ....., appeared in his own capacity as Plaintiff;

and Mr. ....., holder of National ID No. ....., appeared in his capacity as Defendant's "ZATCA" Representative, by virtue of Authorization No. ....., dated .../.../..., issued by ZATCA's Deputy Governor for Legal Affairs and Compliance. Having asked Plaintiff regarding the Case, he maintained the statements contained in the statement of claim previously submitted to General Secretariat of Tax Committees. Having asked Defendant's Representative regarding his response, he stated that a Reply had been sent prior to the convention of this hearing and maintained the statements contained therein. Having asked Parties hereto whether they had further statements, they were satisfied with their earlier submissions. Therefore, the Department decided to postpone the consideration of the Case for further examination in preparation for delivering a decision on .../.../...

On ....., .../.../..., the Department held its session via video conference in accordance with the procedures for remote video litigation. Having called parties to Case, Mr. ……....., holder of National ID No. ....., appeared in his capacity as Defendant's ("ZATCA") Representative, by virtue of Authorization No. ....., dated …/…/…, issued by ZATCA's Deputy Governor for Legal Affairs and Compliance. Neither Plaintiff nor his Representative appeared at the hearing, despite being legally served with its date the method of its convention. Having informed Defendant's Representative of Plaintiff's absence, he requested to proceed with the consideration of the Case and the issuance of a decision thereon. Therefore, the Department decided to adjourn the hearing for deliberation in preparation for delivering a decision.

Grounds

Having taken cognizance of the case papers and after due examination of its documents, and having taken cognizance of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 11/06/1441 AH, and the Common VAT Agreement of GCC States, as well as other relevant laws and regulations, the Department has decided to consider the Case.

In Form: Since Plaintiff filed the Case to abolish Defendant's decision regarding the Final Reassessment for the tax period for the first quarter of 2019 AD and the fines resulting therefrom, in accordance with the Law of Value Added Tax and its Implementing Regulations; and since this dispute is a Tax dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes under Royal Decree No. (M/ 26040) of 02/11/1438 AH; and since the Case was filed by a party having capacity and within the prescribed statutory period, it is then accepted in form.

On Merits: Having taken cognizance of the case papers and documents and granted parties thereto sufficient time to present all arguments and documents, the Department found that the dispute lies in Plaintiff's objection to Defendant's decision regarding the Final Reassessment for the tax period for the first quarter of 2019 AD and the fines resulting therefrom; and since Plaintiff has failed to provide evidence that he was not included within the (75%) exemption rate as stated in Ministerial Resolution No. (2303) of 07/06/1442 AH, Article (1.2) of which exempted Taxpayers if the tax is paid during the period from April 2021 AD to the end of May 2021 AD; Therefore, the Department satisfies to dismiss Plaintiff's Case.

In light of the above grounds and in accordance with the provisions of the Common VAT Agreement of GCC States, the Law of Value Added Tax and its Implementing Regulations, and The Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided the following::

Decision:

Dismiss Plaintiff's Case.

This Decision was delivered in the presence of Both Parties. The Department has set thirty (30) days for receipt of a copy of this Decision, and it may be extended to another same period as the Department deems appropriate. This Decision is deemed final and enforceable under Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.ons.

Committee for Determination of Tax Violations and Disputes The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-1041
Case No. V-59066-2021

Key words:
Value Added Tax – Refund of Real Estate Transaction Tax – Dismissal of Plaintiff's Case.

Abstract

Plaintiff filed this Case requesting Defendant to refund the RETT amount of (SAR 27,000), as a result of supplying real estate in the amount of (SAR 540,000), on the grounds that he is the seller of the property to Defendant and paid the tax to ZATCA, and that the buyer of the property is the party who bears the burden of payment of the tax, while Defendant argued that the sale took place prior to the registration for VAT and that Plaintiff was not registered at the time of concluding the contract in his own capacity nor a tax invoice was issued thereto, and that he has remitted the buyer's tax to ZATCA, without no evidence of an agreement to the contrary.
The Department Found That:
Defendant has suspended the certificate for its favor in accordance with the provisions of the Law of Value Added Tax, based on the fact that the procedures for requesting to purchase the property and the offer to sell were carried out under the application of the VAT on the sale of the property; however, the transfer of the ownership of the property took place on 12/03/1442 AH, corresponding to 29/10/2020 AD, i.e., under the exemption of VAT for real estate supply and the application of the RETT, as the criterion for applying the tax is based on the date of supply related to the date of ownership transfer, in accordance with the Article (20.6) of the Implementing Regulations of the Law of Value Added Tax.
The Department Decided To:
Obligate Defendant to pay Plaintiff an amount of (SAR 27,000) (Twenty-seven thousand Saudi riyals).

Instruments:

- Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH.
- Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH.
- Article 20.6 of Implementing Regulations of Law of Value Added Tax issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, corresponding 14/11/2016 AD.
- Articles (3/B) and (5.1 &2) of RETT Implementing Regulations issued by the Ministerial Decision No. (712) of 15/02/1442 AH.
- Common VAT Agreement of GCC states of November 2016 AD.

Facts:

Facts of the Case are summarized as follows: Mr. ……....., holder of National ID No. ..... ("Plaintiff"), has filed a statement of claim against …….. Bank, C.R. No..... ("Defendant"), which included obligating Defendant to refund the Real Estate Transaction Tax ("RETT") amount of

(SAR 27,000), as a result of supplying real estate in the amount of (SAR 540,000), represented in Apartment No. (.../B) of Layout No. (180/4), of Block No. ....., located at "…….. City" in "…….. Governorate."

Defendant submitted a Reply that included following:

First: Defendant clarifies that it had financed the property using the Islamic Murabaha financing formula, which complies with the Sharia and is approved by the Saudi Central Bank, whereby the Beneficiary informs the Financier "Defendant" of his/her desire to acquire ownership of an asset and requests assistance to finance the purchase.

– The Beneficiary recommends the Financier to purchase the property. The Beneficiary then undertakes to the Financier to purchase the asset therefrom. After that, the Financier requests a mortgage on the property to ensure the Beneficiary's desire to acquire the property and to accept and carry out his obligations.

– The Financier obtains the property from the external supplier in its own name and then becomes the actual owner of the property. The External Supplier shall issue an invoice to the Financier in its name. The Financier then pays the value of the supplied property to the external supplier. Once the Financier becomes the owner of the property, it subsequently enters into an agreement with the Beneficiary, whereby it supplies the property to the Beneficiary for consideration. The ownership of the property is registered directly in the Beneficiary's name by the external supplier, and the property is mortgaged to the Financier in the same Title Deed. The consideration is paid in installments over an agreed-upon period.

Second: Tax Treatment of Murabaha Financing Transactions:

The following tax treatment applies to the Murabaha Financing Structure mentioned above:

1. Since the property own sold the unit to (..... Bank) "Financier/Defendant" and transferred its ownership thereto, the responsibility for imposing and calculating VAT falls on the property owner (The First Sale).
2. The transfer of ownership of the property to the Financier is considered a supply of goods that is subject to VAT. At that time, the property owner did not provide the Financier with any tax documents.
3. The subsequent supply of the property (The Second Sale) by the Financier to the Beneficiary is also considered a taxable supply of goods.
4. The Financier is then required to calculate the VAT on the supply of the property at the full basic amount due on all installments, i.e., the Financier is required to issue a valid tax invoice addressed to the Final Beneficiary.
5. The profit amount included in the installments is exempt from VAT in accordance with Article (29) of the Implementing Regulations of the Law of Value Added Tax, and also due to the fact that the property owner is the party responsible for calculating the VAT and paying thereof to ZATCA in accordance with the provisions of Article (40) of the Common VAT Agreement of GCC States.

Third: The Sale of Saudi Citizen's First Home:

In accordance with Royal Decree No. (A/86) regarding the "Certificate of Entitlement of VAT for First-Time Homebuyers," Defendant requests dismissal of Plaintiff's Case.

On ....., .../.../..., the Department held its session via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant. Having called parties to Case, 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 Attorney, under POA No. ..... Having asked Plaintiff regarding the Case, he maintained the statements contained in the statement of claim previously submitted to the General Secretariat of Tax Committees. Having asked Defendant's Attorney regarding his response, he maintained the statements contained in the Reply submitted to the General Secretariat of Tax Committees. Therefore, the Department decided to postpone the consideration of the Case for further examination in preparation for delivering a decision on .../.../...

On ....., .../.../..., the Department held its session via video conference in accordance with the procedures for remote video litigation. Having called parties to Case, Mr. ....., holder of National ID No. ....., appeared in his own capacity as Plaintiff. Neither Defendant nor his Representative appeared at the hearing. The Department requested Plaintiff to provide a proof of payment of the tax to ZATCA and to postpone the consideration of the Case to .../.../...
On ....., .../.../..., the Department held its session via video conference in accordance with the procedures for remote video litigation. Having called parties to Case, Mr. ....., holder of National ID No. ....., appeared in his own capacity as Plaintiff. Neither Defendant nor his Representative appeared at the hearing. Having asked Plaintiff whether he had further statements, he was satisfied with his earlier submissions. Therefore, the Department decided to adjourn the hearing for deliberation in preparation for delivering a decision.

Grounds

Having taken cognizance of the case papers and after due examination of its documents, and having taken cognizance of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 11/06/1441 AH, and the Common VAT Agreement of GCC States, as well as other relevant laws and regulations, the Department has decided to consider the Case.
In Form: Since Plaintiff filed the Case seeking to obligate Defendant to refund the RETT amount of (SAR 27,000) in accordance with the Law of Value Added Tax and its Implementing Regulations; and since this dispute is a Tax dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes Income under Royal Decree No. (26040) of 21/04/1441 AH; and since the Case was filed by a party having capacity and within the prescribed statutory period, it is then accepted in form.
On Merits: Having taken cognizance of the case papers and documents and granted parties thereto sufficient time to present all arguments and documents, the Department found that the dispute lies in Plaintiff's request obligate Defendant to refund the RETT amount of (SAR 27,000), as a result of supplying real estate in the amount of (SAR 540,000), on the grounds that he is the seller of the property to Defendant and paid the tax to ZATCA, and that the buyer of the property is the party who bears the burden of payment of the tax, while Defendant argued that the sale took place prior to the registration for VAT and that Plaintiff was not registered at the time of concluding the contract in his own capacity nor a tax invoice was issued thereto, and that he has remitted the buyer's tax to ZATCA; and Article (3/B) of RETT Implementing Regulations stipulates: "The transaction shall be subjected to tax only once, when the unit of the parties to the transaction, real estate and the value is achieved. The Authority is entitled to determine the forms and cases to which this Paragraph applies as the case may be;" and since Article (5) of the same Implementing Regulations stipulates: "RETT shall be collected as follows: 1. The RETT shall be collected from the owner who shall pay the RETT and any other potential obligations arising therefrom; 2. The parties may agree upon otherwise provisions contrary to those set forth in Paragraph (1) of this Article; nevertheless, the owner shall remain responsible for payment before the Authority;" and since the dispute lies in Plaintiff's request obligate Defendant to refund the RETT due on real estate supply represented by the sale of a residential unit owned by Plaintiff for an amount of (SAR 540,000), where he requests Defendant to pay the tax due; and since the RETT differs from the VAT, the RETT Implementing Regulations did not state that the tax should be borne by the customer receiving the supply; rather, has stated that the party responsible for payment of the tax before ZATCA is the assignor (seller) of the property in accordance with the RETT Implementing Regulations; however, it is permissible to agree that the assignee (Final Beneficiary), the party purchasing the property, is obligated to pay the tax pursuant to an agreement

to that effect; and since Defendant "..... National Bank" is not considered a party to the tax transaction in accordance with the RETT Implementing Regulations, and that it is not necessary to impose a RETT on Defendant, and then the latter imposes a RETT on the Beneficiary as the final purchaser of the property; rather, the tax is imposed once and the assignor is obligated to pay thereof, as there is no evidence of an agreement to the contrary; and since Defendant has suspended the certificate for its favor in accordance with the provisions of the Law of Value Added Tax, based on the fact that the procedures for requesting to purchase the property and the offer to sell were carried out under the application of the VAT on the sale of the property; however, the transfer of the ownership of the property took place on 12/03/1442 AH, corresponding to 29/10/2020 AD, i.e., under the exemption of VAT for real estate supply and the application of the RETT, as the criterion for applying the tax is based on the date of supply related to the date of ownership transfer, in accordance with the Article (20.6) of the Implementing Regulations of the Law of Value Added Tax; hence, Defendant should have unsuspend the certificate in its favor so that it would be in favor of Plaintiff, which results in Plaintiff's inability to exempt the transaction from the RETT, as the value of the property sale amounted to (SAR 540,000), i.e., within the limits of the amount that the state bears for the RETT; Therefore, the Department satisfies to accept Plaintiff's request to obligate Defendant to pay the tax Plaintiff in the amount of (SAR 27,000), due to Defendant withholding the Certificate of Entitlement of VAT for First-Time Homebuyers from Plaintiff.

In light of the above grounds and in accordance with the provisions of the Common VAT Agreement of GCC States, the Law of Value Added Tax and its Implementing Regulations, and The Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided the following:

Decision:

Obligate Defendant "…….. Bank, C.R. No. ....." to pay Plaintiff (Mr. ....., holder of National ID No. .....) an amount of (SAR 27,000) (Twenty-seven thousand Saudi riyals).

This Decision was delivered in the presence of Both Parties. The Department has set thirty (30) days for receipt of a copy of this Decision, and it may be extended to another same period as the Department deems appropriate. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision is deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(The Decision is deemed final and imperative by the lapse of the objection period under Article (40) of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes The First Department for Determination of VAT Violations and Disputes In Dammam

Decision No. VD-2022-1055
Case No. V-53753-2021

Key words:
Value Added Tax – Fine for Late Submission of Tax Return – Late Payment Fine – Fine Amendment.

Abstract

Plaintiff ("Taxpayer") filed this Case moving to abolish Defendant's ("ZATCA") decision regarding the imposition of a late payment fine and a fine for late submission of a Tax Return.
The Department Found That:
As for item (Fine For Late Submission of Tax Return), the statutory provisions stipulated that "The Tax Return of a Taxable Person shall be filed by the Taxable Person or a person authorized to act on his behalf for each Tax Period with the Authority no later than the last day in the month following the end of the Tax Period to which the Tax Return relates," and that "Any person who fails to submit a tax return within the period specified by the Regulations shall be subject to a fine not less than 5% and not more than 25% of the amount of tax that he should have declared."
As for item (Late Payment Fine), Plaintiff has paid the original tax due for the third quarter of the Tax Return of 2020 AD and is requesting to benefit from the exemption initiative.
The Department Decided To:
Amend the amount of the fine for late submission of the Tax Return to become (SAR 16,404.69) and the amount of the late payment fine to become (SAR 19,685.62).

Instruments:

- Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. (26040) of 21/04/1441 AH.
- Articles (42.3) and (43) of Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH.
- Articles (59.1) and (62.1) of Implementing Regulations of Law of Value Added Tax issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, corresponding 14/11/2016 AD.
- Common VAT Agreement of GCC states of November 2016 AD.

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 ("ZATCA"/ "Defendant") regarding the imposition of a late payment fine and a fine for late submission of a Tax Return, and requested cancellation of the fines in question.
Having presented the statement of claim to Defendant it submitted a Reply that included the following:
"Defendant clarifies that Plaintiff should have initially filed his objection with Defendant before filing his Case with the General Secretariat of the Tax Committees pursuant to Article (49) of the

Law of Value Added Tax and Article (2) of The Tax Dispute and Violation Committee Procedures, which renders filing the Case with the General Secretariat of the Tax Committees before meeting the requirements set forth in the Laws and Regulations be flawed. Defendant's representative concluded by requesting dismissal of Plaintiff's Case in form.

On ....., .../.../..., the Department held its session via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant, wherein Mr. ....., holder of National ID No. ....., appeared in his own capacity as Plaintiff; and Mr. ....., holder of National ID No. ....., appeared in his capacity as Defendant's "ZATCA" Representative, by virtue of Authorization No. ....., dated .../.../..., issued by ZATCA's Deputy Governor for Legal Affairs and Compliance. Having asked Plaintiff regarding the Case, he maintained the statements contained in the statement of claim previously submitted to 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. Therefore, the Department requested Defendant's Representative to submit a substantive response to Plaintiff's claim before 20/04/2022 AD, and to be reviewed by Plaintiff and submits its response before 15/05/2022 AD, and decided to postpone the consideration of the Case to 18/05/2022 AD.

Defendant submitted a Replication that included the following:

- With regard to item (Fine For Late Submission of Tax Return), Plaintiff's deadline for submitting his Tax Return for his tax period was 31/10/2020 AD, while the date of submitting the Tax Return was 13/04/2021 AD, indicating that Plaintiff did not adhere to the prescribed statutory period, which renders Defendant's procedure in imposing the fine in question sound and valid in accordance with Article (62) of the Implementing Regulations of the Law of Value Added Tax. (Exhibit No. 1).
- With regard to item (Late Payment Fine), Plaintiff's deadline for submitting his Tax Return for his tax period was 31/10/2020 AD, while the date of submitting the Tax Return was 13/04/2021 AD, indicating that Plaintiff did not adhere to the prescribed statutory period, which renders Defendant's procedure in imposing the fine in question sound and valid in accordance with Article (59.1) of the Implementing Regulations of the Law of Value Added Tax. (Exhibit No. 2).

Defendant's representative concluded by requesting dismissal of Plaintiff's Case.

On ....., .../.../..., the Department held its session via video conference in accordance with the procedures for remote video litigation. wherein Mr. ……....., holder of National ID No. ....., appeared in his capacity as Defendant's ("ZATCA") Representative, by virtue of Authorization No. ....., dated …/…/…, issued by ZATCA's Deputy Governor for Legal Affairs and Compliance. Neither Plaintiff nor his Representative appeared at the hearing, despite being legally served with its date the method of its convention. Having informed Defendant's Representative of Plaintiff's absence, he requested to proceed with the consideration of the Case and the issuance of a decision thereon. Therefore, the Department decided to adjourn the hearing for deliberation in preparation for delivering a decision..

Grounds

Having taken cognizance of the case papers and after due examination of its documents, and having taken cognizance of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 11/06/1441 AH, and the Common VAT Agreement of GCC States, as well as other relevant laws and regulations, the Department has decided to consider the Case.

In Form: Since Plaintiff filed the Case to abolish Defendant's decision regarding the imposition of a late payment fine and a fine for late submission of a Tax Return, in accordance with the Law of

Value Added Tax and its Implementing Regulations; and since this dispute is a Tax dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes under Royal Decree No. (26040) of 21/04/1441 AH; and since the Case was filed by a party having capacity and within the prescribed statutory period, it is then accepted in form.
On Merits: Having taken cognizance of the case papers and documents and granted parties thereto sufficient time to present all arguments and documents, the Department found that the dispute lies in Plaintiff's objection to Defendant's decision regarding the imposition of a late payment fine and a fine for late submission of a Tax Return for the tax period for the third quarter of 2020 AD, due to Plaintiff's failure to submit his Tax return and pay the tax due on time, which included the following:
1. Item (Fine For Late Submission of Tax Return):
Since Article (62.1) of the Implementing Regulations of the Law of Value Added Tax stipulates: "The Tax Return of a Taxable Person shall be filed by the Taxable Person or a person authorized to act on his behalf for each Tax Period with the Authority no later than the last day in the month following the end of the Tax Period to which the Tax Return relates. A Tax Return filed validly on behalf of a Taxable Person shall be considered that Taxable Person's self-assessment of Tax due for that Tax Period. The Authority shall have the right to issue an assessment based on its best estimate of the Tax properly due for the relevant Tax Period in cases where the Taxable Person has failed to file a Tax Return. The Taxable Person remains obligated to submit the outstanding Tax Return;" and since Article (42.3) of the Law of Value Added Tax stipulates: "Any person who fails to submit a tax return within the period specified by the Regulations shall be subject to a fine not less than 5% and not more than 25% of the amount of tax that he should have declared."
2. Item (Late Payment Fine):
Since Article (62.1) of the Implementing Regulations of the Law of Value Added Tax stipulates: "Payment of Tax due by a Taxable Person in respect of a Tax Period shall be made at the latest by the last day of the month following the end of that Tax Period;" and since Article (43) of the Law of Value Added Tax stipulates: "Any person who fails to pay the tax due within the period specified by the Regulations shall be subject to a fine equal to 5% of the amount of the unpaid tax for each month or part thereof for which the tax is not paid;" and since Clause (First) of the Ministerial Decision No (2303) of 07/06/1442 AH, corresponding to 21/01/2021 AD stipulates: "Late payment and late submission fines stipulated in all tax laws and regulations, in addition to the tax return correction fine stipulated in the Law of Value Added Tax, are exempt from any Tax Return that must be submitted and/or paid to the Authority before the effective date of this decision, provided that Taxpayer or Taxable Person pays the original tax debt related to that Tax Return in full as of the date of issuance of this decision and in accordance with the following rates: 1. A 100% exemption from the fines referred to in this clause if the original tax debt related to the Tax Return, under which the fine resulted, is fully paid during the period from January 2021 to March 2021 AD; 2. A 75% exemption from the fines referred to in this clause if the original tax debt related to the Tax Return, under which the fine resulted, is fully paid during the period from April 2021 to May 2021 AD; and 3. A 50% exemption from the fines referred to in this clause if the original tax debt related to the Tax Return, under which the fine resulted, is fully paid during June 2021 AD;" and since Plaintiff's claim to cancel the fines is based on his lack of knowledge of the exact details of the Statute of Zakat, Tax, and Customs Authority, and that the ZATCA's employees informed Plaintiff that he would benefit from the exemption initiative in the event of payment of the tax, however, in the event of delay, he should check with the Ministry of Housing; and since Plaintiff has paid the original tax due for the third quarter of the Tax Return of 2020 AD and is requesting to benefit from the exemption initiative; and since the subject of the fines in question is related to the tax due for the Tax Return that must be submitted and paid before the effective date of the exemption initiative on 07/06/1442 AH corresponding to 21/01/2021 AD, which is the Tax Return of third quarter of 2020 AD; and since Plaintiff has submitted his Tax Return for the third quarter of 2020 AD and paid the full tax due on 13/04/2021 AD, the

exemption rate of (75%) set forth in Paragraph (2) of Clause (First) of Ministerial Decision No. (2303) of 07/06/1442 AH applies to Plaintiff; Therefore, the Department satisfies to accept Plaintiff's claim by amending the fines in question and applying the exemption rate of (75%) set forth in Paragraph (2) of Clause (First) of Ministerial Decision No. (2303) of 07/06/1442 AH, due to Plaintiff's payment of the full tax due related to the Tax Return for the third quarter of 2020 AD for the period April to May 2021 AD, whereby the fine for late submission of the Tax Return becomes (SAR 16,404.69), and the late payment fine becomes (SAR 19,685.62).

In light of the above grounds and in accordance with the provisions of the Common VAT Agreement of GCC States, the Law of Value Added Tax and its Implementing Regulations, and The Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided the following:

Decision:

First: Amend the amount of the fine for late submission of the Tax Return to become (SAR 16,404.69).

Second: Amend the amount of the late payment fine to become (SAR 19,685.62).

This Decision was delivered in the presence of Both Parties. The Department has set thirty (30) days for receipt of a copy of this Decision, and it may be extended to another same period as the Department deems appropriate. This Decision is deemed final and enforceable under Article (42) of Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions..

Committee for Determination of Tax Violations and Disputes First Department for Determination of Income Tax Violations and Disputes inDammam

Decision No. VD-2022-1060
Case No. R-37569-2021

Key words:
Value Added Tax – Refund of Value Added Tax – Compensation – Acceptance of Plaintiff's Case.

Abstract

Plaintiff filed this Case requesting to obligate Defendant to refund the VAT amount of (SAR 41,000).
The Department Found That:
As for the VAT amount in question, since Plaintiff is requesting to obligate Defendant to refund the VAT amount of (SAR 41,000), as a result of a purchase of Plot No. ....., of Layout No. ..... Also, Defendant did not deny the receipt of the claimed amount as a tax, but rather cited an unsubstantiated matter.
As for the compensation, Plaintiff did not provide any evidence regarding the validity of her claim, the existence of damage, or Defendant's delay without justification or basis.
The Department Decided To:
Oblige Defendant to pay Plaintiff an amount of (SAR 41,000) (Forty-one thousand Saudi riyals), and dismiss Plaintiff's all other claims.

Instruments:

- Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. (26040) of 21/04/1441 AH.
- Value Added Tax Law promulgated by Royal Decree No. (M/113) of 02/11/1438 AH.
- Article (14) of Implementing Regulations of Law of Value Added Tax issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, corresponding 14/11/2016 AD.
- Article (25) of Common VAT Agreement of GCC States, November 2016 AD.

Facts:

Facts of the Case are summarized as follows: Ms. ……....., holder of National ID No. ..... ("Plaintiff"), has filed a statement of claim against Mr. ……....., holder of National ID No. ..... ("Defendant"), which included obligating Defendant to refund the Value Added Tax ("VAT") amount of (SAR 41,000), as a result of purchase real estate in the amount of (SAR 820,000), represented in Plot No. ....., of Layout No. ....., located at "Al Aziziyah District in Al Khobar City. On Tuesday, 25/01/2022 AD, the Department held its session via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant. Having called parties to Case, Neither Plaintiff nor his Representative appeared at the hearing, despite being legally served with its date. Since it is established that "Whoever Waived His Claim Shall Have It Dismissed," the Department unanimously decided to remove the Case from

the hearing schedule in accordance with Article (20) of Tax Dispute and Violation Committee Procedures.
On 31/01/2022, Plaintiff submitted a request to reopen the Case.
On Wednesday, 20/04/2022 AD, the Department held its session via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant. Neither Plaintiff nor Defendant appeared at the hearing. Since Plaintiff was unable to access the Department's platform due to a technical malfunction, the Department decided to allow parties to Case to attend the next hearing on 15/05/2022 AD.
On Sunday, 15/05/2022 AD, the Department held its session via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant. Having called parties to Case, Ms. ....., holder of National ID No. ....., appeared in her own capacity as Plaintiff; and Mr. ....., holder of National ID No. ....., appeared in his own capacity as Defendant. Having asked Plaintiff regarding her Case, she maintained the statements contained in the statement of claim previously submitted to the General Secretariat of Tax Committees. Having asked Defendant regarding his response, he maintained the statements contained in the Reply submitted to the General Secretariat of Tax Committees. Having asked Plaintiff regarding the reason for paying the tax amount of (SAR 41,000), she replied that the amount was paid based on Defendant's request, representing a tax on a real estate supply in the amount of (SAR 820,000). Having asked Plaintiff regarding the extent of knowing whether the property was not subject to tax, she stated that one of her relatives contacted the Zakat, Tax and Customs Authority ("ZATCA") and informed him that the real estate supply was not subject to tax, and that she did not have any evidence proving that statement. Having asked Plaintiff regarding the Case filed against Defendant before the Court, she stated that no ruling had been issued thereon, and the Court advised her to go to the Tax Committees. Therefore, the Department requested Defendant to submit the VAT registration certificate as well as any further submissions he wanted to add before 16/05/2022 AD, provided that Plaintiff reviews Defendant's submissions and submits her response if she has any statements she wants to add before 17/05/2022 AD, and to postpone the consideration of the Case to 18/05/2022 AD.
Plaintiff submitted a Replication that included following:
Since Defendant acknowledged the receipt of the tax amount, which is proven in the attached check, Plaintiff requests to obligate Defendant to return the tax amount, and compensate Plaintiff for withholding the amount, depriving the same from benefiting from that amount, and causing psychological harm. As for Defendant's statement that Plaintiff promised him to pay another amount after the sale, it is incorrect and has no relation to the tax in question.
Defendant then submitted a Rejoinder stating that Plaintiff did not claim the tax amount until six months after knowing the exemption. Defendant concluded by requesting dismissal of Plaintiff's Case.
On Wednesday, 18/05/2022 AD, the Department held its session via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant. Having called parties to Case, Ms. ....., holder of National ID No. ....., appeared in her own capacity as Plaintiff; and Mr. ....., holder of National ID No. ....., appeared in his own capacity as Defendant. Having asked the parties to the case if they had any other statements, they were satisfied with their earlier submissions. The Department directed parties hereto to resort to reconciliation; however, Plaintiff refused the reconciliation. Therefore, the Department decided to adjourn the hearing for deliberation in preparation for delivering a decision.

Grounds

Having taken cognizance of the case papers and after due examination of its documents, and having taken cognizance of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by issued by

ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 11/06/1441 AH, and the Common VAT Agreement of GCC States, as well as other relevant laws and regulations, the Department has decided to consider the Case.

In Form: Since Plaintiff filed the seeking to obligate Defendant to refund the VAT amount of (SAR 41,000) in accordance with the Law of Value Added Tax and its Implementing Regulations; and since this dispute is a Tax dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes Income under Royal Decree No. (26040) of 21/04/1441 AH; and since the Case was filed by a party having capacity and within the prescribed statutory period, it is then accepted in form.

On Merits: Having taken cognizance of the case papers and documents and granted parties thereto sufficient time to present all arguments and documents, the Department found that the dispute lies in Plaintiff's request to obligate Defendant to refund the VAT amount of (SAR 41,000), as a result of purchase real estate in the amount of (SAR 820,000), which included the following:

First: With regard to the VAT amount in question, since Plaintiff is requesting to obligate Defendant to refund the VAT amount of (SAR 41,000); and since Article (25.1) of the Common VAT Agreement of GCC States stipulates: "Tax shall be applied at the standard rate of (5%) of the value of the Supply or the value of Imports, unless this Agreement provides for an exemption or the zero-rate on such supplies;" and since Article (14) of the Implementing Regulations of Law of Value Added Tax concerning "Taxable Supplies in the Kingdom," stipulates: "Without prejudice to the second article of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, Tax is applied to all Taxable Supplies of Goods and services made in the Kingdom by a Taxable Person in the course of carrying out an economic activity, or received in the Kingdom by a Taxable Person in instances where the Reverse Charge Mechanism applies, as well as to Imports of Goods;" and since it is established that Defendant did not deny the receipt of the claimed amount as a tax, but rather cited an unsubstantiated matter; Therefore, the Department satisfies to accept Plaintiff's claim and obligate Defendant to pay the claimed amount.

Second: With regard to the compensation, since Plaintiff did not provide any evidence regarding the validity of her claim, the existence of damage, or Defendant's delay without justification or basis; Therefore, the Department satisfies to dismiss Plaintiff's claim in this regard.

In light of the above grounds and in accordance with the provisions of the Common VAT Agreement of GCC States, the Law of Value Added Tax and its Implementing Regulations, and The Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided the following:

Decision:

First: Oblige Defendant, Mr....., holder of National ID No. (.....), to pay Plaintiff, Mr....., holder of National ID No. (.....), the amount of (SAR 41,000) (Forty-one thousand Saudi riyals).

Second: Dismiss Plaintiff's all other claims.

This Decision was delivered in the presence of Both Parties. The Department has set thirty (30) days for receipt of a copy of this Decision, and it may be extended to another same period as the Department deems appropriate. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision is deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Committee for Determination of Tax Violations and Disputes First Department for Determination of Income Tax Violations and Disputes inDammam

Decision No. VD-2022-1085
Case No. 78197-2021-V

Key words:
Value Added Tax – Cancellation of VAT Registration – Acceptance of Plaintiff's Case.

Abstract

Plaintiff ("Taxpayer") filed this Case to abolish Defendant's ("ZATCA") decision regarding the imposition of a fine for late registration for the Value Added Tax ("VAT") in the amount of (SAR 10,000), and requested cancellation of the VAT registration.
The Department Found That:
As for the "Late Registration Fine," Plaintiff did not file an objection before ZATCA and was notified of the imposed fine on 14/02/2021 AD. Also, Plaintiff filed this Case before the Department on 19/10/2022 AD; hence, the Case was then filed after the decision in question had become immune from being challenged.
As for the "Cancellation of VAT Registration," Defendant has failed to provide evidence that would require Plaintiff to be registered for VAT, nor did it have a reason to cancel Plaintiff's registration other than the existence of a late registration fine, which was now fixed against Plaintiff under Paragraph (First) of this Decision.
The Department Decided To:
Dismiss Plaintiff's Case regarding the Late Registration Fine in form, and accept the same regarding the Cancellation of VAT Registration.

Instruments:

- Article (3) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. 26040 of 21/04/1441 AH.
- Value Added Tax Law promulgated by Royal Decree No. (M/113) of 02/11/1438 AH.
- Implementing Regulations of Law of Value Added Tax issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, corresponding 14/11/2016 AD.
- Common VAT Agreement of GCC states of November 2016 AD.

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 ("ZATCA"/ "Defendant") regarding the imposition of a fine for late registration for the Value Added Tax ("VAT") in the amount of (SAR 10,000), and requested cancellation of the VAT registration as well as the fine resulting therefrom.

Having presented the statement of claim to Defendant, it submitted a Reply stating that the Case is inadmissible in form since it was filed after the decision in question had become immune from being challenged.
On Monday, 16/05/2022 AD, the Department held its session via video conference in accordance with the procedures for remote video litigation to consider the Case filed by Plaintiff against Defendant, wherein Mr. ....., holder of National ID No. ....., appeared in his own capacity; and Mr. ....., holder of National ID No. ....., appeared in his capacity as Defendant's "ZATCA" Representative, by virtue of Authorization No. ....., dated .../.../... AH, issued by ZATCA's Deputy Governor for Legal Affairs and Compliance. Having asked Plaintiff regarding the Case, he maintained the statements contained in the statement of claim previously submitted to General Secretariat of Tax Committees. Having asked Defendant's Representative regarding his response, he maintained the statements contained in the Reply previously submitted to General Secretariat of Tax Committees. Having asked Parties hereto whether they had further statements, they were satisfied with their earlier submissions. Therefore, the Department decided to adjourn the hearing for deliberation in preparation for delivering a decision.
After due deliberation, the Department issued the following decision:

Grounds

First: Late Registration Fine:
Having reviewed the relevant laws and regulations, the Department found that, since hearing this Case is conditional upon filing an objection to ZATCA "Defendant" within sixty (60) days from the date of notification, and in accordance with Article (3) of The Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH; and since the case documents indicate that Plaintiff did not file an objection before ZATCA and was notified of the imposed fine on 14/02/2021 AD; and since Plaintiff filed this Case before the Department on 19/10/2022 AD; hence, the Case was then filed after the decision in question had become immune from being challenged. Therefore, the Case shall be dismissed in form.
Second: Cancellation of VAT Registration:
In Form: Since Plaintiff filed the Case to abolish Defendant's decision regarding the imposition of a fine for late registration for VAT, in accordance with the Law of Value Added Tax and its Implementing Regulations; and since this dispute is a Tax dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes under Royal Decree No. (26040) of 21/04/1441 AH; and since the Case was filed by a party having capacity and within the prescribed statutory period, it is then accepted in form.
On Merits: Since Defendant has failed to provide evidence that would require Plaintiff to be registered for VAT, nor did it have a reason to cancel Plaintiff's registration other than the existence of a late registration fine, which was now fixed against Plaintiff under Paragraph (First) of this Decision, there is no justification for continuing the registration, which necessitates accepting Plaintiff's claim to cancel the registration.
In light of the above grounds and in accordance with the provisions of the Common VAT Agreement of GCC States, the Law of Value Added Tax and its Implementing Regulations, and The Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided the following:

Decision:

First: Dismiss Plaintiff's Case regarding the Late Registration Fine in form.
Second: Accept Plaintiff's Case regarding the Cancellation of VAT Registration.
This Decision was issued in the presence of Both Parties. Date of depositing the Decision in the e-system of the General Secretariat of Zakat, Tax and Customs Committees is considered the date of delivery of the Decision. Parties hereto may appeal against the decision under Law within thirty

(30) days from the day following the date specified for its receipt, whereafter the Decision is deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(The Decision is deemed final and imperative by expiration of objection period under Article (40) of Tax Dispute and Violation Committee Procedures).

Key words:

Value Added Tax – Final Assessment –Fine for Submission of Incorrect Tax Return – Late Payment Fine.

Abstract

Plaintiff ("Taxpayer") filed this Case to abolish Defendant's ("ZATCA") decision regarding the Final Assessment for the tax period of December 2020 AD and the imposition of a fine for submission of an incorrect Tax Return and a late payment fine.

The Department Found That:

As for item (Taxable Local Sales at Basic Rate), the initial basic invoices issued related to those credit notes, as well as the daily entries, were not attached to the Case file. Also, Plaintiff has failed to submit sufficient documents to prove its eligibility to deduction in the sales value.

As for item (Fine for Submission of Incorrect Tax Return), Defendant's Reply has shown that the dispute has been resolved.

As for item (Late Payment Fine), the Department has decided to uphold Defendant's decision regarding the Final Assessment for the tax period of December 2020 AD. Also, it is established that "The Resulting Occurrence Shall Take The Same Effect."

The Department Decided To:

Dismiss Plaintiff's Case regarding items (Taxable Local Sales at Basic Rate) and (Late Payment Fine), and establish resolution of dispute over item (Fine for Submission of Incorrect Tax Return).

Instruments:

- Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH.
- Article (43) of Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH.
- Common VAT Agreement of GCC States, November 2016 AD.
- Value Added Tax Law promulgated by Royal Decree No. (M/113) of 02/11/1438 AH.
- Article (70) of Law of Civil Procedure promulgated by Royal Decree No. (M/1) of 22/01/1435 AH.
- Article (70.1) of Implementing Regulations of Law of Civil Procedure issued by Minister of Justice Decision No. (39933) of 19/05/1435 AH.
- Article (49.9/A) of Implementing Regulations of Law of Value Added Tax issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, corresponding 14/11/2016 AD.
- Implementing Regulations of the Income Tax Law issued by Minister of Finance 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 the attached Articles of Association, has filed a statement of claim objecting to the decision issued by the Zakat, Tax, and Customs Authority ("ZATCA") regarding the Final Assessment for the tax period of December 2020 AD and the imposition of a fine for submission of an incorrect Tax Return and a late payment fine.

Having presented the statement of claim to Defendant it submitted a two-page Reply that was reviewed by the Department.

On Sunday, 06/03/2022 AD, the First Department to Adjudicate the Value Added Tax Violations and Disputes in Jeddah held its session via video conference in accordance with the procedures for remote video litigation and pursuant to the provisions of Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. (26040) of 21/04/1441 AH, to consider the Case filed by Plaintiff against Defendant. Having called parties to Case, Mr. ……....., Saudi National, holder of National ID No. ....., appeared in his capacity as Defendant's ("ZATCA") Representative, by virtue of Authorization No. ....., dated …/…/…, issued by ZATCA's Deputy Governor for Legal Affairs and Compliance. Neither Plaintiff nor his Representative appeared at the hearing. Having asked Defendant's Representative regarding his response, he maintained the statements contained in the Reply attached to Case file. Having perused Article (20) of Tax Dispute and Violation Committee Procedures, and since the Case is ripe for adjudication, the Department decided to adjourn the hearing for deliberation in preparation for delivering a decision.

Grounds

Having taken cognizance of the case papers and after due examination of its documents, having perused the Income Tax law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by the Minister of Finance's Decision No. (1535) of 11/06/1425 AH, as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 11/06/1441 AH, and the Common VAT Agreement of GCC States promulgated by Royal Decree No. (M/51) of 03/05/1438 AH, as well as other relevant laws and regulations, the Department has decided to consider the Case.

In Form: Since Plaintiff filed the Case to abolish Defendant's decision regarding the Final Assessment for the tax period of December 2020 AD, as well as the fines resulting therefrom; and since this dispute is a Tax dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes under Royal Decree No. (26040) of 21/04/1441 AH; and since the Case was filed with a party having capacity and within the prescribed statutory period, it is then accepted in form.

On Merits: Having taken cognizance of the case papers and documents and granted parties thereto sufficient time to present all arguments and documents, the Department found that the dispute lies in Plaintiff's objection to Defendant's decision regarding the Final Assessment for the tax period of December 2020 AD as well as the fines resulting therefrom, which included the following:

1. Item (Taxable Local Procurement at Basic Rate):

Having reviewed the documents included in the Case file, the Department found that Plaintiff had made a mistake in declaring the item in question since the procurements declared at rates of (5%) and (15%) were for invoices issued after the exemption effective date of 04/10/2020 AD, which indicates that Plaintiff violated Article (49.9/A) of the Implementing Regulations of the Law of Value Added Tax; Therefore, the Department satisfies to dismiss Plaintiff's Case regarding the item in question due to the validity of Defendant's decision.

2. Item (Fine for Submission of Incorrect Tax Return):

Since Article (70) of the Law of Civil Procedure promulgated by Royal Decree No. (M/1) of 22/01/1435 AH stipulates: "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;" and since Article (70.1) of the Implementing Regulations of the Law of Civil Procedure issued by Minister of Justice Decision No. (39933) of 19/05/1435 AH stipulates: "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 Defendant's Reply has shown that the dispute has been resolved, with Defendant stating the following: "With regard to Plaintiff's objection to the fine for submission of an incorrect Tax Return, Defendant clarifies that the fine has already been cancelled (evidence of cancellation is attached herein);" Therefore, the Department satisfies to establish resolution of dispute.

3. Item (Late Payment Fine):

Since this Department has decided to uphold Defendant's decision regarding the Final Assessment for the tax period of December 2020 AD; and since it is established that "The Resulting Occurrence Shall Take The Same Effect;" Therefore, the Department satisfies to uphold Defendant's decision and dismiss Plaintiff's Case regarding the item in question in accordance with Article (43) of the Law of Value Added Tax.

In light of the above grounds and in accordance with the provisions of the Common VAT Agreement of GCC States, the Law of Value Added Tax and its Implementing Regulations, and The Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided the following:

Decision:

First: Dismiss Plaintiff's Case regarding item (Taxable Local Item Procurement at Basic Rate) due to the validity of Defendant's decision.

Second: Establish resolution of dispute over item (Fine for Submission of Incorrect Tax Return).

This Decision was delivered in presence of Both Parties in accordance with the provisions of Article (56) of Law of Civil Procedure. The Department has set thirty (30) days for receipt of a copy of this Decision, and it may be extended to another same period as the Department deems appropriate. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision is deemed final and enforceable. Date of depositing the Decision in the e-system of the General Secretariat of Zakat, Tax and Customs Committees is considered the date of delivery of the Decision.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(The Decision is deemed final and imperative by the lapse of the objection period under Article (40) of Tax Dispute and Violation Committee Procedures).

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

Decision No. VJ-2022-453
Case No. V-2021-58210

Key words:
Value Added Tax – Final Assessment –Fine for Submission of Incorrect Tax Return – Late Payment Fine.

Abstract

Plaintiff ("Taxpayer") filed this Case to abolish Defendant's ("ZATCA") decision regarding the Final Assessment for the tax period of January 2021 AD and the imposition of a fine for submission of an incorrect Tax Return and a late payment fine.
The Department Found That:
As for item (Taxable Local Procurement at Basic Rate), the procurements took place after the exemption effective date on 04/10/2020 AD, and that the VAT Return for procurements declared "on" or "after" exemption effective date violates the provisions of the Implementing Regulations of the Law of Value Added Tax, indicating that Plaintiff should have not state these procurements in the VAT Return since they were exempted from VAT.
As for item (Fine for Submission of Incorrect Tax Return), Defendant's Reply has shown that the dispute has been resolved.
As for item (Late Payment Fine), the Department has decided to uphold Defendant's decision regarding item (Taxable Local Procurement at Basic Rate). Also, it is established that "The Resulting Occurrence Shall Take The Same Effect."
The Department Decided To:
Dismiss Plaintiff's Case regarding items (Taxable Local Item Procurement at Basic Rate) and (Late Payment Fine), and establish resolution of dispute over item (Fine for Submission of Incorrect Tax Return).

Instruments:

- Tax Dispute and Violation Committee Procedures promulgated 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.
- Common VAT Agreement of GCC States, November 2016 AD.
- Articles (27.1) and (43) of Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH.
- Article (70) of Law of Civil Procedure promulgated by Royal Decree No. (M/1) of 22/01/1435 AH.
- Article (70.1) of Implementing Regulations of the Law of Civil Procedure issued by Minister of Justice Decision No. (39933) of 19/05/1435 AH.
- Articles (30), (49.9/A, B), (59.1), and (70.14) of Implementing From Regulations of Law of Value Added Tax issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, corresponding 14/11/2016 AD.

- Implementing Regulations of the Income Tax Law issued by Minister of Finance 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 the attached Articles of Association, has filed a statement of claim objecting to the decision issued by the Zakat, Tax, and Customs Authority ("ZATCA") regarding the Final Assessment for the tax period of January 2021 AD and the imposition of a fine for submission of an incorrect Tax Return and a late payment fine.

Having presented the statement of claim to Defendant it submitted a two-page Reply that was reviewed by the Department.

On Sunday, 06/03/2022 AD, the First Department to Adjudicate the Value Added Tax Violations and Disputes in Jeddah held its session via video conference in accordance with the procedures for remote video litigation and pursuant to the provisions of Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. (26040) of 21/04/1441 AH, to consider the Case filed by Plaintiff against Defendant. Having called parties to Case, Mr. ……....., Saudi National, holder of National ID No. ....., appeared in his capacity as Defendant's ("ZATCA") Representative, by virtue of Authorization No. ....., dated …/…/…, issued by ZATCA's Deputy Governor for Legal Affairs and Compliance. Neither Plaintiff nor his Representative appeared at the hearing. Having asked Defendant's Representative regarding his response, he maintained the statements contained in the Reply attached to Case file. Having perused Article (20) of Tax Dispute and Violation Committee Procedures, and since the Case is ripe for adjudication, the Department decided to adjourn the hearing for deliberation in preparation for delivering a decision.

Grounds

Having taken cognizance of the case papers and after due examination of its documents, having perused the Income Tax law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH, as amended, and its Implementing Regulations issued by the Minister of Finance's Decision No. (1535) of 11/06/1425 AH, as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH, as amended, and its Implementing Regulations issued by issued by ZATCA "Previously GAZT" Board of Directors Decision No. (3839) of 14/12/1438 AH, as amended, The Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 11/06/1441 AH, and the Common VAT Agreement of GCC States promulgated by Royal Decree No. (M/51) of 03/05/1438 AH, as well as other relevant laws and regulations, the Department has decided to consider the Case.

In Form: Since Plaintiff filed the Case to abolish Defendant's decision regarding the Final Assessment for the tax period of January 2021 AD, as well as the fines resulting therefrom; and since this dispute is a Tax dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes under Royal Decree No. (26040) of 21/04/1441 AH; and since the Case was filed with a party having capacity and within the prescribed statutory period, it is then accepted in form.

On Merits: Having taken cognizance of the case papers and documents and granted parties thereto sufficient time to present all arguments and documents, the Department found that the dispute lies in Plaintiff's objection to Defendant's decision regarding the Final Assessment for the tax period of December 2020 AD as well as the fines resulting therefrom, which included the following:

1. **Item (Taxable Local Procurement at Basic Rate):**

Since Article (49.9) of the Implementing Regulations of the Law of Value Added Tax stipulates: "Where a Taxable Person incurs Input Tax on the purchase, construction, modification, or renovation of real estate for the purpose of making a Taxable Supply, and such Supply has become exempt pursuant to Paragraph (1) of Article 30 of these Regulations, the Taxable Person may deduct such Input Tax subject to the provisions of Paragraph (7) of this Article and the following conditions: a) The Supplies related to the purchase, construction, modification, or renovation of real estate were received before the date the exemption was enacted and entered into force; b) The Input Tax on such Supplies -the subject of this Paragraph- is deducted through a filed Tax Return for any Tax Period prior to 31 December 2020;" and since Article (70.14) of the same Implementing Regulations stipulates: "Pursuant to Paragraph (1) of this Article, a Person who carries out an Economic Activity in their capacity as a licensed real estate developer -in accordance with the terms and conditions established by the Authority- may submit an application to register as a designated Person eligible for a refund of the Tax such Person incurs on Goods and Services received in the Kingdom and that relate to that Economic Activity in accordance with the refund procedures set forth in this Article. The Authority may establish additional rules and procedures for the refund of Tax by such Persons."

and since Defendant, with regard to "Taxable Procurement at Rate of (15%) of (SAR 103,739.05)," argued that Plaintiff deducts procurements incurred on a date subsequent to the exemption effective date, i.e., the purchases took place on or after 04/10/2020 AD, while Plaintiff claimed that there is ambiguity and lack of clarity regarding the mechanism of deduction and refund at the date of submitting the Tax Return; and since the procurements were declared at a rate of (5%), i.e., they pertain to invoices issued before 01/07/2020 AD, during the period of application of the VAT at a rate of (5%); hence, it is impossible for there to be taxable procurements at a rate of (5%) after the exemption effective date since the tax rate has been changed to be (15%) as of 01/07/2020 AD, i.e., before the exemption effective date on 04/10/2020 AD, indicating that Plaintiff did not violate Article (49.9/A) of the said Implementing Regulations; however, the procurements were declared in the Tax Return of January 2021, which violates Article (49.9/B) thereof, which specified the maximum limit for the deduction for the tax period ending on 31/12/2020 AD; Therefore, the Department satisfies to dismiss Plaintiff's Case and uphold Defendant's decision as to the conclusion it had in this regard; and since Defendant, with regard to "Taxable Procurement Basic Rate of (15%) of (SAR 4,658,825.96)," argued that Plaintiff deducts procurements incurred on a date subsequent to the exemption effective date, i.e., the purchases took place on or after 04/10/2020 AD, while Plaintiff claimed that there is ambiguity and lack of clarity regarding the mechanism of deduction and refund at the date of submitting the Tax Return; and since the procurements took place after the exemption effective date on 04/10/2020 AD; and since the VAT Return for procurements declared "on" or "after" exemption effective date violates the provisions of Article (49.9/A) of the said Implementing Regulations, indicating that Plaintiff should have not state these procurements in the VAT Return since they were exempted from VAT, and also violates Article (49.9/B) thereof, which specified the maximum limit for the deduction for the tax period ending on 31/12/2020 AD; however, Article (70.14) of the same Implementing Regulations guaranteed the real estate developer the right to "refund the tax" for procurements related to exempt supplies incurred (on) or (after) the exemption date of 04/10/2020 AD, i.e., the real estate developer is no longer entitled to "deduct" procurements for those invoices, but rather the right to "refund the tax," provided that the real estate developer submits "an application to register as a Designated Person eligible for a refund of the Tax" after verifying that all requirements contained in Ministerial Decision No. 1754 have been met, and that after the acceptance of that application the refund requests are submitted quarterly or annually, after which ZATCA "Defendant" reviews these requests, and upon approval, the amounts requested for refund are transferred to the bank account; and

since Plaintiff's argument that the procedures for real estate developers were not clarified at the date of submitting the Tax Return cannot be accepted, as Ministerial Decision No. 1754 was issued on 15/04/1442 AH, corresponding to 30/11/2020 AD, which determined the controls and conditions for benefiting from Royal Order No. (A/84) regarding the entitlement to the refund, a date that came prior to Plaintiff's Tax Return; and since Article (70) of the said Implementing Regulations entitled "Refund of Tax to Designated Persons" has clearly clarified the parties entitled to refund of the tax, its conditions and mechanism; and since Paragraph (14) thereof, which was added on 10/01/2020 AD, has also clearly clarified the right of the real estate developer, as an exception, to submit "an application to register as a Designated Person eligible for a refund of the Tax;" Therefore, the Department satisfies to dismiss Plaintiff's Case and uphold Defendant's decision as to the conclusion it had in this regard.

2. **Item (Fine for Submission of Incorrect Tax Return):**
Since Article (70) of the Law of Civil Procedure promulgated by Royal Decree No. (M/1) of 22/01/1435 AH stipulates: "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;" and since Article (70.1) of the Implementing Regulations of the Law of Civil Procedure issued by Minister of Justice Decision No. (39933) of 19/05/1435 AH stipulates: "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 Defendant's Reply has shown that the dispute has been resolved, with Defendant stating the following: "With regard to Plaintiff's objection to the fine for submission of an incorrect Tax Return, Defendant clarifies that the fine has already been cancelled (evidence of cancellation is attached herein);" Therefore, the Department satisfies to establish resolution of dispute.

3. **Item (Late Payment Fine):**
Since Article (27.1) of the Law of Value Added Tax stipulates: "The Regulations shall determine the periods and terms and conditions for the payment of net tax due on a taxable person;" and since Article (59.1) of the Implementing Regulations of the Law of Value Added Tax stipulates: "Payment of Tax due by a Taxable Person in respect of a Tax Period shall be made at the latest by the last day of the month following the end of that Tax Period;" and since Article (43) of the Law of Value Added Tax stipulates: "Any person who fails to pay the tax due within the period specified by the Regulations shall be subject to a fine equal to 5% of the amount of the unpaid tax for each month or part thereof for which the tax is not paid;" and since the late payment fine resulted from Plaintiff's failure to pay the due tax within the statutory period, which resulted from the Reassessment of Plaintiff's Tax Return for the tax period in question, which indicates Plaintiff's failure to comply with Article (59.1) of the said Implementing Regulations; and since this Department has decided to uphold Defendant's decision regarding item (Taxable Local Procurement at Basic Rate); and since it is established that "The Resulting Occurrence Shall Take The Same Effect;" Therefore, the Department satisfies to uphold Defendant's decision and dismiss Plaintiff's Case regarding the item in question in accordance with Article (43) of the Law of Value Added Tax.

In light of the above grounds and in accordance with the provisions of the Common VAT Agreement of GCC States, the Law of Value Added Tax and its Implementing Regulations, and The Tax Dispute and Violation Committee Procedures, the Department, after deliberation, unanimously decided the following:

Decision:

First: Dismiss Plaintiff's Case regarding item (Taxable Local Procurement at Basic Rate) due to the validity of Defendant's decision.
Second: Establish resolution of dispute over item (Fine for Submission of Incorrect Tax Return).
Third: Dismiss Plaintiff's Case regarding item (Late Payment Fine) due to the validity of Defendant's decision.

This Decision was delivered in presence of Both Parties in accordance with the provisions of Article (56) of Law of Civil Procedure. The Department has set thirty (30) days for receipt of a copy of this Decision, and it may be extended to another same period as the Department deems appropriate. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision is deemed final and enforceable. Date of depositing the Decision in the e-system of the General Secretariat of Zakat, Tax and Customs Committees is considered the date of delivery of the Decision.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(The Decision is deemed final and imperative by the lapse of the objection period under Article (40) 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 inJeddah

Decision No. VJ-2022-618
Case No. V-2021- 71921

Key words:

Value Added Tax – Final Assessment – Fine for Error in Return – Penalty for Late Payment – Standard-Rated Tax Local Purchases

Abstract

Taxpayer requests annulling ZATCA decision regarding the final assessment for July 2020 and imposing fines for errors in return and late payment. Regarding (Standard-Rated Tax Local Purchases) item, the dispute involves the final assessment notice for tax period. The Department found that Taxpayer failed to provide tax invoices to substantiate the right to deduction in the return, which resulted in excluding some local purchases subject to the standard rate for the period in question. Regarding the fines for errors in the return and late payment, the Department concluded in the first item, which pertains to the final assessment for July 2020, to uphold Defendant's procedure, since the related matters shall have the same effect. Therefore, the Department dismisses Taxpayer's claim regarding (Standard-Rated Tax Local Purchases) item and imposing fines for error in the return and late payment.

Instruments:

- 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 (1) of Article (44) and Paragraph (1) of Article (48) of the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC), November 2016 AD
- Articles (42.1) and (43) of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH.
- Paragraphs (7) and (8) of Article (49) and Article (64) of the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Decision No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD
- Implementing Regulations of Income Tax Law promulgated by Minister of Finance Decision No. (1535) dated 11/06/1425 AH

Facts:

The facts of this case are summarized that (...), holder of National ID No. (...), in his capacity as the owner of (... Enterprise), C.R. No. (...), submitted a statement of claim, objecting to Defendant's decision regarding the final assessment for July 2020 and imposing fines for error in the return and late payment. Having presented Plaintiff's statement of claim to Defendant's representative, he replied with a two-page answer. Accordingly, Plaintiff submitted a one-page replication that was reviewed by the Department.

On Tuesday, 22/03/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held e-hearing session pursuant to remote litigation procedures in

accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH to consider the Case filed Plaintiff against Defendant. Having called the parties to the Case, the Department found that neither Plaintiff nor Plaintiff's attorney appeared. In addition, (...), Saudi national, holder of National ID No. (...), appeared in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated ../../... issued by Vice Governor for Legal Affairs. Having asking Defendant's representative about his answer, he answered by insisting on the statements included in the answer provided. Since the Case was ripe for adjudication in accordance with provisions of Article (20) of Tax Dispute and Violation Committee Procedures. Therefore, the Department decided to adjourn the session for deliberation in preparation for adjudication.

Grounds

Having perused and verified case papers, and having perused Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, and in accordance with the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, and its Implementing Regulations issued by ZATCA Board Resolution No. (3839) dated 14/12/1438 AH as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of the States of the Gulf Cooperation Council (GCC), as well as other relevant laws and regulations.

In Form: Since Plaintiff filed the Case moving for annulling Defendant's decision regarding the final assessment for July 2020 and the resulting fines. Since this dispute is a tax dispute, it falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form

On Merits: Having examined the case papers and the submissions made by its parties after having ample time to make their pleadings and replies, the Department found that the dispute relates to: First: Standard-Rated Tax Local Purchases, the dispute involves the final assessment notice for tax period related to July 2020, as Defendant (ZATCA) excluded standard-rated tax local purchases in the amount of SAR 14,226.95. Paragraph (1) of Article (44) of the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) stipulates: "The Taxable Person may deduct from the Tax Due and Payable by him in a Member State the value of Deductible Tax borne in the same State in the course of making Taxable Supplies". Article (64) of the Implementing Regulations of the Law of Value Added Tax stipulates "The Authority may make an assessment of the VAT obligations of a Person in respect of one or more Tax Periods. The Authority shall provide notification to the Taxable Person when it issues such an assessment". - Paragraph (1) of Article (48) of the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) stipulates: "For the purpose of exercising the right to deduction, the taxable person must possess the following documents:" A. the Tax Invoice received pursuant to the provisions of this Agreement". - Paragraph (7) of Article (49) of the Implementing Regulations of the Law of Value Added Tax stipulates: "Input Tax may only be deducted where the Taxable Person holds evidence of the amount of Input Tax paid or payable in a form specified in Article forty-eight of the Agreement". Paragraph (8) of Article (49) of the Implementing Regulations of the Law of Value Added Tax stipulates: "A deduction of Input Tax may be made by a Taxable Person in a Tax Period subsequent to that Tax Period including the date of Supply, provided that the Taxable Person remains eligible to make such deduction under the other provisions of these Regulations. Input Tax may not be deducted in any period which falls more than five calendar years after the calendar year in which the Supply takes place". Having taken cognizance of the entire Case file

and documents included therein, it turns out that Taxpayer objects to the Defendant's assessment of tax return for July 2020 by excluding total standard-rated tax local purchases in the amount of SAR 14,226.95, which resulted in an increased amount of tax due. Having taken cognizance of Defendant's answer, it turned out that Plaintiff attached a statement of purchases in an amount lower than what was declared in tax return. During the objection phase, Taxpayer submitted a new statement of purchases, and the purchases that were found to violate tax invoice requirements were excluded. Having taken cognizance of Plaintiff's statement of claim, it turns out that Plaintiff contests the validity of Defendant's procedure. However, Plaintiff failed to provide supporting evidence, such as a statement of purchases and tax invoices, to substantiate the right to claim deduction. Since Taxpayer failed to provide tax invoices to substantiate the right to claim deduction in the return, some standard-rated tax local purchases were excluded for the period in question following examination process. Therefore, the Department concludes that Defendant's decision is valid. Second: Imposing fine for error in the return, the Department concluded in the first item regarding the final assessment for tax period related to July 2020 to uphold Defendant's procedure. Since the related matters shall have the same effect and in accordance with Paragraph (1) of Article (42) of the Law of Value Added Tax, the Department dismisses Plaintiff's claim regarding the fine for error in the return. Third: Imposing late payment fine, the Department concluded, in the first item related to the final assessment for tax period related to July 2020, to uphold Defendant's procedure. Since the related matters shall have the same effect. Therefore, in accordance with provision of Article (43) of the Law of Value Added Tax, the Department dismisses Plaintiff's claim regarding the imposition of late payment fine.

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

Decision:

First: Dismiss Plaintiff's claim regarding (Standard-Rated Tax Local Purchases) item for tax period (July 2020), subject matter of the case, as Defendant's decision has been proven to be valid.

Second: Dismiss Plaintiff's claim regarding objection to the fine for error in the return for tax period (July 2020), subject matter of the case, as Defendant's decision has been proven to be valid.

Third: Dismiss Plaintiff's claim regarding objection to late payment fine for tax period (July 2020), subject matter of the case, as Defendant's decision has been proven to be valid.

This decision was issued in presence of both parties. and the Department set a period of thirty (30) days for the receipt of a copy of the decision. The Department may extend the deadline for receipt by an additional thirty days if deemed necessary. 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 will be final and enforceable. Date of depositing the Decision in the e-system of the General Secretariat of Zakat, Tax and Customs Committees is considered the date of delivery of the Decision

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 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 inJeddah

Decision No. VJ-2022-679
Case No. V-2021- 38012

Key words:
Value Added Tax – Final Assessment – Standard-Rated Local Purchases – Fine for Error in the Return – Late Payment Fine

Abstract

Taxpayer requests annulling ZATCA decision regarding the final assessment for Q1 of 2018 and imposing fines for errors in return and late payment. Regarding (Standard-Rated Tax Local Purchases) item, the final assessment resulted in excluding the amount in question from purchases. The Department found that Taxpayer failed to provide final assessment notice for reviewing reason for excluding purchases and determining excluded amounts for the quarter in question. Regarding the fines for error in the return and late payment, the Department concluded in the first item, which pertains to the final assessment for Q1 of 2018, to uphold Defendant's procedure, since the related matters shall have the same effect. Therefore, the Department dismisses Taxpayer's claim regarding (Standard-Rated Tax Local Purchases) item and imposing fines for error in the return and late payment.

Instruments:

- 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
- Paragraphs (1) and (2) of Article (48) of the Common Agreement for Value Added Tax of the Gulf Cooperation Council Countries, November 2016.
- Paragraph (6) of Article (22), Paragraph (1) of Article (42) and Article (43) of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH.
- Paragraphs (7) and (8) of Article (49) of the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Decision No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD
- Implementing Regulations of Income Tax Law promulgated by Minister of Finance Decision No. (1535) dated 11/06/1425 AH

Facts:

The facts of this Case are summarized that (...), holder of Residence No. (...), in his capacity as the legal representative of Plaintiff Company, C.R. No. (...), under AOA included in Case file, submitted a statement of claim, objecting to Defendant's decision regarding the final assessment related to Q1 of 2018 and imposing fines for error in the return and late payment fine. Having presented Plaintiff's statement of claim to Defendant's representative, he replied with a one-page

answer. Accordingly, Plaintiff's attorney submitted a two-page replication that was reviewed by the Department.

On Monday, 28/03/2022 AD, the First Department to Adjudicate Value Added Tax Violations and Disputes in Jeddah held e-hearing session pursuant to remote litigation procedures in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH to consider the Case filed Plaintiff against Defendant. Having called the parties to the Case, the Department found that (...), (Lebanese National), holder of Residence No. (...), appeared in his capacity as Plaintiff's attorney, under AOA. In addition, (...), Saudi national, holder of National ID No. (...), appeared in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated ../../ ... AH issued by Vice Governor for Legal Affairs. Having asked Plaintiff about the claim, Plaintiff answered that the claim is confined to Q1 of 2018 and requested examining purchase invoices and ensuring their validity. Having asked Defendant's representative about his answer, he insisted on statements included in the answer. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

Having perused and verified case papers, and having perused Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, and in accordance with the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, and its Implementing Regulations issued by ZATCA Board Resolution No. (3839) dated 14/12/1438 AH as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of the States of the Gulf Cooperation Council (GCC), as well as other relevant laws and regulations.

In Form: Since Plaintiff filed the Case moving for annulling Defendant's decision regarding the final assessment for Q1 of 2021 and the resulting fines. Since this dispute is a tax dispute, it falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a party having capacity and within the statutory period. Therefore, the Department accepts the Case in form

On Merits: Having examined the case papers and the submissions made by its parties after having ample time to make their pleadings and replies, the Department found that the dispute relates to: First: Standard-rated tax local purchases, as the final assessment resulted in excluding the amount in question from purchases. Paragraph (1) of Article (48) of the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) stipulates: "For the purpose of exercising the right to deduction, the taxable person must possess the following documents:" A. The Tax Invoice received pursuant to the provisions of this Agreement". In addition, Paragraph (2) of Article (48) of the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) stipulates "Each Member State may allow the Taxable Person to exercise the right of deduction in the event that a Tax Invoice is not available or does not meet the requirements provided for in this Agreement, provided that the value of Tax due can be established by any other means". In addition, Paragraph (6) of Article (22) of the Law of Value Added Tax stipulates: "The Regulations shall determine the following: - The means of proof by which a taxable person establishes the value of the tax due in the event that a tax invoice is not available or does not comply with the requirements stipulated in the Agreement, the Law, and the Regulations". Moreover, Paragraph (7) of Article (49) of the Implementing Regulations of the Law of Value Added Tax stipulates: "Input VAT may not be deducted unless the taxable person has evidence that the amount of input

VAT paid or due is in accordance with the provisions specified in Article (48) of this Agreement. In cases where the taxable person does not possess the required documents as specified in the Agreement, they may claim the deduction if they are able to provide the following alternative evidence to ZATCA: A. a Simplified Tax Invoice which is correctly issued in accordance with these Regulations". - Paragraph (8) of Article (49) of the Implementing Regulations of the Law of Value Added Tax stipulates "A deduction of Input Tax may be made by a Taxable Person in a Tax Period subsequent to that Tax Period including the date of Supply, provided that the Taxable Person remains eligible to make such deduction under the other provisions of these Regulations. Input tax may not be deducted in any period after five years from the calendar year in which the supply occurred" Having taken cognizance of the provided documents, it turns out that although Defendant did not respond on the merits, Plaintiff failed to provide the final assessment notice to examine the reason for excluding purchases and to determine the excluded amounts for the quarter in question. In addition, Plaintiff did not provide the supporting documents related to the purchases in question, such as a statement of purchases for the period and a sample invoice for each supplier to verify the accuracy of the statement, and accordingly proving validity of the return and confirming possession of documents entitling Plaintiff to claim deduction and bear tax as a customer, such as tax invoices or any other evidence proving the due tax. The Plaintiff's declaration of purchases without possessing documentation proving the right to deduction contradicts Paragraph (1) of Article (48) of the Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) and Paragraph (7) of Article (49) of the Implementing Regulations of the Law of Value Added Tax. Based on the foregoing and the provided documents, the Department dismisses the Case and upholds Defendant's decision.

Second: Imposing fine for error in the return, the Department concluded in the first item regarding the final assessment for Q1 of 2018 to uphold Defendant's procedure, as the related matters shall have the same effect. Therefore, in accordance with Paragraph (1) of Article (42) of the Law of Value Added Tax, the Department dismisses Plaintiff's claim regarding the imposition of fine for error in the return. Third: Imposing late payment fine, the Department concluded, in the first item related to the final assessment for tax related to Q1 of 2018, to uphold Defendant's procedure. Since the related matters shall have the same effect. Therefore, in accordance with provision of Article (43) of the Law of Value Added Tax, the Department dismisses Plaintiff's claim regarding the imposition of late payment fine.

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

Decision:

First: Dismiss Plaintiff's claim regarding (Standard-Rated Tax Local Purchases) item for tax period (Q1 of 2018), subject matter of the case, as Defendant's decision has been proven to be valid.

Second: Dismiss Plaintiff's claim regarding objection to the fine for error in the return for tax period (Q1 of 2018), subject matter of the case, as Defendant's decision has been proven to be valid.

Third: Dismiss Plaintiff's claim regarding objection to late payment fine for tax period (Q1 of 2018), subject matter of the case, as Defendant's decision has been proven to be valid.

This decision was issued in presence of both parties. and the Department set a period of thirty (30) days for the receipt of a copy of the decision. The Department may extend the deadline for receipt by an additional thirty days if deemed necessary. The parties to the case may request its appeal within (thirty) days from the day following the date specified for receipt thereof. In the event that objection is not filed, the decision shall become final and enforceable after expiry of this period. Date of depositing the Decision in the e-system of the General Secretariat of Zakat, Tax and Customs Committees is considered the date of delivery of the Decision

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 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 Dammam

Decision No. VR-2022-258
Case No. V-65804-2021

Key words:
Value Added Tax – Payment of Value Added Tax – Accepting the Case

Abstract

ZATCA requests obliging Taxpayer to pay a total amount of SAR 2,101,589.12 that outlines VAT and the fines incurred for tax period (Q1, Q3, and Q4 of 2018, Q1 of 2019, and Q4 of 2020) related to VAT payment. The dispute between Plaintiff and Taxpayer involves claiming Taxpayer to pay VAT and fine for tax periods. The Department found that Taxpayer failed to fulfill its tax obligations within the statutory deadline despite of being frequently notified to make the payment, which constitutes negligence and failure to meet its tax obligations towards the rights of the State. Therefore, the Department obliges Taxpayer to pay a total amount of SAR 306,659.03 that outlines VAT and the fines incurred for tax periods (Q1, Q3 and Q4 of 2018, Q1 of 2019, and Q4 of 2020).

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH
- Paragraph (8) of Article (67) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH.
- Article 14 of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common VAT Agreement of GCC states of November 2016
- Implementing Regulations of Income Tax Law promulgated by Minister of Finance's Decision No. (1535) dated 11/06/1425 AH
- Article (59) of the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Decision No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD.

Facts:

The facts of this Case are summarized that ZATCA submitted a statement of claim, requesting the Department to oblige Defendant (...), holder of National ID No. (...), to pay a total amount of SAR 2,101,589.12 that outlines VAT and the fines incurred for tax periods (Q1, Q3 and Q4 of 2018, Q1 of 2019, and Q4 of 2020).

On Wednesday, 09/02/2022 AD, the Department held its first session to consider the Case filed by ZATCA against (...), holder of National ID No. (...). Having called the parties to the Case, the Department found that (...), holder of National ID No. (...), appeared in his capacity as ZATCA representative under ZATCA Authorization No. (...). In addition, neither Defendant or Defendant's representative appeared despite of being notified of session date via the e-mail

registered in Case file. After verifying appearance of ZATCA representative by displaying national ID through a magnified window and confirming his capacity, the Department decided to proceed with Case consideration. In addition, Plaintiff's attorney requested a correction of the claimed amount, adjusting request to obligate Defendant to pay a total amount of SAR 306,659.03 that outlines VAT and the fines incurred for tax periods (Q1, Q3 and Q4 of 2018, Q1 of 2019, and Q4 of 2020), based on the breakdown outlined in the statement of claim. As such, since neither Defendant nor Defendant's representative appeared despite of being duly notified of session date. Since the Case is ripe for adjudication. Therefore, the Department, after discussion, decided to close pleadings and adjourn the session for deliberation and adjudication.

Grounds

Having perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, in addition to the relevant laws and regulations. In Form: Since Plaintiff (ZATCA), as established from Case file, filed the Case through the e-portal on 15/08/2021 AD. Since Plaintiff's decision, subject matter of the Case, pertains to Q1, Q3 and Q4 of 2018, Q1 of 2019, and Q4 of 2020. Thereupon, the Case was filed within the five-year statutory period stipulated in Paragraph (8) of Article (67) of Income Tax Law as amended by Royal Decree No. (M/113) that stipulates: "Tax dispute lawsuits may not be heard upon the lapse of five years from the maturity date of the amount subject of the claim or the date of knowledge of the incident subject to the dispute, except in the presence of grounds acceptable by the Committee". Therefore, the Department accepts the Case in form.
On Merits: The Department, having taken cognizance of documents included in Case file and answer of each party after being granted a sufficient time to present their arguments, found that the dispute between Plaintiff and Defendant involves Plaintiff's claim against Defendant to pay VAT and fines for tax periods in question, amounting to a total of SAR 2,101,589.20. This amount outlines VAT and all related fines for tax periods (Q1, Q3 and Q4 of 2018, Q1 of 2019, and Q4 of 2020). Plaintiff's attorney requested a correction of the claimed amount, adjusting it to SAR 306,659.03 in accordance with Article (59) of the Implementing Regulations of the Law of Value Added Tax and Article (43) of the Law of Value Added Tax. Plaintiff claims that Defendant was frequently notified and urged to make the payment but failed to comply, prompting Plaintiff to file this Case before Tax Committees as the competent authority to oblige Defendant to pay its outstanding liabilities in accordance with Article (14) of the State Revenue Law promulgated by Royal Decree No. (M/68) dated 18/11/1431 AH that stipulates: "If a debtor fails to pay the due debt within the period specified in Article 13, he shall be sent a final notice to pay the debt within 15 business days. If such debt is not paid within said period, the authority shall petition the competent court to attach a debtor's property of a value covering the amount of the debt". Since Defendant failed to present any argument regarding the dispute despite of being notified by the General Secretariat of the claim filed by ZATCA and the requirement to provide an answer. Since Defendant was found to be in violation of Article (59) of the Implementing Regulations of the Law of Value Added Tax that stipulates: "Payment of Tax due by a Taxable Person in respect of a Tax Period must be made at the latest by the last day of the month following the end of that Tax Period". Since Defendant did not fulfill its tax obligations within the statutory period despite of multiple notices, this constitutes negligence and failure to comply with its tax obligations toward the state's rights. Therefore, the Department unanimously decided:

Decision:

First: Accept Plaintiff's case in form.

Second: On Merits: Obligate Defendant (...), holder of National ID No. (...), to pay a total amount of SAR 306,659.03 that outlines VAT and the fines incurred for tax periods (Q1, Q3 and Q4 of 2018, Q1 of 2019, and Q4 of 2020).

Third: This decision was delivered in presence of Plaintiff and as if in presence of Defendant. Department set thirty (30) days for receiving copy of decision, and may extend delivery date for another (30) days as it deems appropriate. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. The decision shall become final and enforceable after expiry of this period.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 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. VR-2022-509
Case No. R-54290-2021

Key words:
Value Added Tax – Payment Invoice – Payment of Value Added Tax – Dismissing the Case

Abstract

Plaintiff requests the Department to oblige Defendant to pay VAT in the amount of SAR 44,000. The dispute involves the claim of Plaintiff, in the capacity of the seller, against Defendant, in the capacity of the buyer, to pay VAT. Since Defendant has not provided any legal basis to justify the refusal to settle tax dues owed to Plaintiff. Therefore, the Department obliges Defendant to pay Plaintiff VAT amount of (SAR 44,000).

Instruments:

- Article 42 of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. 26040 of 21/04/1441 AH
- Common VAT Agreement of GCC states of November 2016
- Paragraph (8) of Article (67) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH
- Article 2 of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Article (14) of the Implementing Regulations of Income Tax Law promulgated by Minister of Finance Decision No. (1535) dated 11/06/1425 AH
- Article (14) of the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Decision No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD.

Facts:

The facts of this Case are summarized that Plaintiff, holder of National ID No. (...), in person, submitted a statement of claim, requesting the Department to oblige Defendant to pay VAT in the amount of SAR 44,000 arising from selling a plot of land to Defendant.

Having presented the statement of claim to Defendant, Defendant submitted an answer summarized as follows: "Having reviewed bank records related to the purchase of Plot No. (../.) in Plan No. (...) located in Riyadh, it turned out that Plaintiff was not registered with ZATCA at the time of completing property sale transaction". As such, we request the Committee to dismiss the Case.

On Tuesday, 02/03/2022 AD, the Department held its first e-hearing session pursuant to remote litigation procedures in accordance with Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to the Case, the Department found that Plaintiff (...) appeared. On the other hand, Defendant's representative did not appear despite of being notified of session date via the e-mail

included in Case file. After verifying appearance of Plaintiff by displaying national ID through a magnified window and validating his capacity, the Department decided proceeding with Case consideration. Plaintiff requested the Department to oblige Defendant to pay VAT amount of SAR 44,000 for the sale of a property (villa) valued at SAR 529,000 based on the breakdown provided in the statement of claim. Having taken cognizance of Case file, it turned out that there was no evidence proving Plaintiff's ownership of the land or sale price. Therefore, the Department decided to instruct Plaintiff to provide supporting evidence. Plaintiff requested additional time to submit the required documents in the next session. After discussion, the Department decided to respond to the request of Plaintiff, by giving him one week to provide the required documents, provided that Defendant is provided with a copy thereof for answer if desired, and adjourn Case consideration until Tuesday, 22/03/2022 AD, along with notifying Defendant of session date.

On Tuesday, 22/03/2022 AD, the Department held its first e-hearing session in accordance with provisions of Paragraph (2) of Article (15) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated dated 21/04/1441 AH. Having called parties to the Case, the Department found that Plaintiff (...) appeared. On the other hand, Defendant's representative did not appear despite of being notified of session date via the e-mail included in Case file. After verifying appearance of Plaintiff by displaying national ID through a magnified window and validating his capacity, the Department decided proceeding with Case consideration. Having asked Plaintiff about what he was granted time for in the preceding session, Plaintiff stated that he had submitted proof of ownership of the land through the attached title deed, along with a copy of the certified bank check elaborating sale value of SAR 526,315.79, as well as a copy of the title deed confirming transfer of ownership to Defendant. Plaintiff satisfied with the earlier submissions. As such, and since Defendant's representative failed to appear at that session despite of being duly notified of session date. Since the Case is ripe for adjudication. Therefore, the Department, after discussion, decided to close pleadings and adjourn the session for deliberation and adjudication.

Grounds

Having perused Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/10/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, and 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 filed the claim through the e-portal on 13/06/2022 AD. Since the due date of claimed amount is 24/07/2019 AD. Therefore, the claim was filed within the statutory period stipulated in Paragraph (8) of Article (67) of Income Tax Law as amended by Royal Decree No. (M/113) that stipulates: "Tax dispute lawsuits may not be heard upon the lapse of five years from the maturity date of the amount subject of the claim or the date of knowledge of the incident subject to the dispute, except in the presence of grounds acceptable by the Committee". Therefore, the Department accepts the Case in form.

On Merits: The Department, having taken cognizance of documents included in Case file and answer of each party after being granted sufficient time to present their arguments, found that the dispute involves the claim of Plaintiff, in the capacity of the seller, against Defendant, in the capacity of the buyer, to pay VAT in the amount of SAR 44,000 arising from selling a plot of land No. (...) from Plan No. (...), located in Riyadh with title deed No. (...) dated ../../... AH in total amount of SAR 526,315.79. Since the principal rule in bearing the burden of VAT shall be the responsibility of the recipient of goods and services. Since the Department found that Plaintiff has paid the tax in accordance with ZATCA Payment Invoice No. (...). Since it has been confirmed that Plaintiff was subject to VAT at the time of concluding sale with Defendant. Since Defendant has not provided any legal grounds justifying refusal to pay tax dues to Plaintiff. Since Article (14) of the Implementing Regulations for the Law of Value Added Tax stipulates: "Without prejudice

to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom". Therefore, the Department accepts the Case filed by Plaintiff.

Decision:

First: Accept Plaintiff's case in form.
Second: On Merits: Oblige Defendant (... Bank), C.R. No. (...), to pay Plaintiff (...), holder of National ID No. (...), VAT amount of SAR 44,000.
Third: This decision was delivered in presence of Plaintiff and as if in presence of Defendant. The Department set thirty (30) days for receiving copy of decision, and may extend delivery date for another (30) days as it deems appropriate. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. The decision shall become final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures. Allah is the Arbiter of Success.

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 to Adjudicate Value Added Tax Violations and Disputes in Riyadh

Decision No. VR -2022-512
Case No. V-56374-2021

Key words:
Value Added Tax (VAT) - Late Registration Fine - Field Detection Fine - Case Dismissed

Abstract

The Taxpayer instituted this case moving to cancel ZATCA's decision regarding the imposition of a fine for late registration in the amount of SAR (10,000). The dispute centers on the Defendant imposing a late registration fine on the Plaintiff in the amount of SAR (10,000), resulting from the Taxpayer exceeding the mandatory registration threshold. The Taxpayer acknowledged his ignorance of the VAT Law and did not present any documents proving that he did not exceed the mandatory registration threshold. Therefore, the Department ruled to cancel the field detection fine in the amount of SAR (10,000).

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 21/04/1441 AH
- Common VAT Agreement of GCC states of November 2016
- Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH
- Article 41 of the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Article (6.1) and Article (56.2) of the Implementing Regulations of Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425 AH

Facts:

Facts of this case are summed up as follows: Mr. (...), ID No. (...), in his capacity as Owner of (...) Establishment, CR. No. (...), submitted a statement of claim objecting to ZATCA's decision to impose a late registration fine of SAR 10,000, requesting cancellation of the imposed fine.
Upon presenting the statement of claim to the Defendant, it submitted a reply memorandum consisting of two pages in which the Defendant maintained the validity of its decision and requested dismissal of the Plaintiff's case.
On Tuesday, 15/03/2022, the Department held its first session pursuant to provisions of Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040), dated 21/04/1441 AH. Upon calling parties to the case, neither the Plaintiff nor their Attorney appeared, despite having been duly notified of the session date via the email registered in the case file. However, Mr. (...), ID No. (...), attended as ZATCA's Representative under Authorization No. (...). The Department, upon verifying the presence of ZATCA's Representative by presenting his ID card through an enlarged window and confirming his capacity, decided to proceed with hearing the case. In his statement of claim, the Plaintiff requested cancellation of ZATCA's decision to impose a late registration fine of SAR 10,000, based on the details outlined in the case. When asked

to respond to the Plaintiff's claim, ZATCA's Representative maintained the validity of the decision, citing the justifications outlined in the response memorandum submitted as a reply to Plaintiff's claims. Given the above and since the Plaintiff or his Representative did not appear for the session despite being notified, and as the case was ready for adjudication, after deliberation, the Department closed the pleadings, adjourned the session, and proceeded to issue its decision.

Grounds

Having perused and verified case papers, and having perused Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, and in accordance with the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, and its Implementing Regulations issued by ZATCA Board Resolution No. (3839) dated 14/12/1438 AH as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of the States of the Gulf Cooperation Council (GCC), as well as other relevant laws and regulations.

In form, since the Plaintiff seeks, through this claim, to cancel ZATCA's decision regarding the imposition of a late registration fine, based on the VAT Law and its Implementing Regulations, and given that this dispute falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes , in accordance with Royal Decree No. (26040), dated 21/04/1441 AH, and as the claim was filed by a party with legal standing and within the statutory timeframe, the Department finds it necessary to accept the claim in form.

On merits, upon the Department's consideration of the case documents and responses of both parties after granting them sufficient time to present and submit their arguments, the Department found that the dispute centers on the Defendant imposing a fine for late registration on the Plaintiff in the amount of SAR (10,000), resulting from the Plaintiff exceeding the mandatory registration threshold. The Defendant registered the Plaintiff based on Article (6.1) of the Implementing Regulations, according to the data obtained from a third party in accordance with the provisions of Article (56.2) of the Implementing Regulations. The Plaintiff acknowledged his ignorance of the VAT Law and did not present any documents proving that he did not exceed the mandatory registration threshold. Therefore, the Department finds the imposition of the fine to be valid based on Article (41) of the VAT Law. Based on the foregoing, the Department unanimously decided:

Decision:

First: Accept Plaintiff's case in form.

Second: On Merits: Dismiss the claim filed by the Plaintiff (...), ID No.(...), seeking to cancel the field detection fine in the amount of SAR (10,000).

Third: This decision was issued in absentia for the Plaintiff and in presence for the Defendant. The Department has set a thirty-day period for receiving a copy of the decision. The Department may extend the deadline for an additional thirty days at its discretion. This decision is final and enforceable, in accordance with Article (42) of The Tax Dispute and Violation Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

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

Decision No. VR -2022-527
Case No. V-50349-2021

Key words:
Value Added Tax (VAT) – Reassessment – Misdeclaration Fine– Late Payment Fine – Case Accepted.

Abstract

The Taxpayer instituted this case moving to cancel ZATCA's decision regarding the reassessment of 1Q 2018 and the imposition of VAT in the amount of SAR (34,078.89), a misdeclaration fine in the amount of SAR (18,056.40), and a fine for late payment in the amount of SAR (56,203.17). Concerning the reassessment, it is evident that the Taxpayer objects to ZATCA's inclusion of all their sales under local taxable sales subject to the basic rate. The Defendant has not submitted any documents proving otherwise. Regarding item (misdeclaration fine) and item (fine for late payment), whereas the aforementioned items have led to the cancellation of the Defendant's decision, and because the two penalties resulted from this, the resulting occurrence shall take the same effect. Therefore, the Department ruled to cancel ZATCA's decision regarding the reassessment of Q4 2018 and imposition of VAT in the amount of SAR 34,078.89, a misdeclaration fine amounting to SAR 18,056.40, and a late payment fine of SAR 56,203.17.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 21/04/1441 AH
- Common VAT Agreement of GCC states of November 2016
- Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. (1535) of 11/06/1425 AH

Facts:

Facts of this case are as follows: Mr. ..., ID No. (...), in his capacity as Owner of ... Establishment, CR. No. (...), submitted a statement of claim that included his objection to ZATCA's decision regarding the reassessment of the first quarter of 2018, and the imposition of Value Added Tax in the amount of SAR (34,078.89), a misdeclaration fine in the amount of SAR (18,056.40), and a fine for late payment in the amount of SAR (56,203.17).

Upon presenting the statement of claim to the Defendant, they submitted a reply memorandum consisting of two pages, in which the Defendant maintained the validity of their decision and requested a judgment to dismiss the case in terms of form, and a judgment to reject the Plaintiff's case on merits.

On Tuesday,11/01/ 2022, the Department held its first session to review the case filed by (...), ID No. (...), against ZATCA. When the case parties were called, the Plaintiff (...) appeared, along with Mr. (...), ID No. (...), representing ZATCA under authorization No. (...). After verifying the

presence of both parties by inspecting their ID cards through a magnified window and confirming their identities, the Department decided to proceed with the case review. The Plaintiff requested cancellation of ZATCA's decision regarding the reassessment of the first quarter of 2018, and the imposition of Value Added Tax in the amount of SAR (34,078.89), a misdeclaration fine in the amount of SAR (18,056.40), and a fine for late payment in the amount of SAR (56,203.17), based on the details provided in his case. When asked to respond to the Plaintiff's claim, the Defendant's Representative, ZATCA's Representative maintained the validity of the decision, citing the justifications outlined in the response memorandum submitted as a reply to Plaintiff's claims. Having asked both parties if they would like to add any statements or documents, The Plaintiff stated that the establishment had no income and that he had cancelled the commercial registration on ../../... and requested a period of time to submit the establishment's bank statement and his personal bank statement to present at the next session. Accordingly, after deliberation, the Department decided to respond to the Plaintiff's request, give him two weeks to submit the required documents, provided that ZATCA's Representative shall be provided with a copy thereof so that he may respond to its sole discretion, and adjourn case consideration until Monday, 21/03/2022.

On Monday, 21/03/2022, The Department held its session remotely pursuant to the provisions of Article (15.2) of The Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated: 21/04/1441 AH. When calling Parties to the case, the Plaintiff ..... And Mr. ..., ID No. (...), attended as ZATCA's Representative under authorization No. (...) issued by ZATCA. After verifying attendance and identities of the Parties through their national ID cards via a magnifying window, the Department decided to proceed with consideration of the case. Upon questioning the Plaintiff regarding the matter for which they were given a period in the previous session. They stated that their personal bank statement, which clarifies their income, had been submitted. Additionally, a statement from the central bank indicating that the establishment did not have a bank account was also submitted. They were satisfied with what they had previously presented. Upon questioning ZATCA's Representative about what was presented and what the Plaintiff mentioned? ZATCA's Representative stated that the statement submitted by the central bank did not address the tax period in question in the case, but rather the statement only mentioned the absence of an account at the time of the complaint's submission. Therefore, the statement from the Saudi Central Bank did not qualify as evidence to prove the Plaintiff's claim, and they were satisfied with what had been previously presented. The Plaintiff requested to be provided with a letter to the central bank specifying the period. Whereas the matter was mentioned, and after discussion, the Department decided to close the pleading and adjourn the session for deliberation and issuance of a decision.

Grounds

Having perused and verified case papers, and having perused Income Tax law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, and in accordance with the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, and its Implementing Regulations issued by ZATCA Board Resolution No. (3839) dated 14/12/1438 AH as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, Common VAT Agreement of the States of the Gulf Cooperation Council (GCC), as well as other relevant laws and regulations.

In form, as the Plaintiff aims with their case to cancel ZATCA's decision regarding the reassessment of the first quarter of 2018, and the imposition of Value Added Tax, a misdeclaration fine, and a fine for late payment, based on the Value Added Tax (VAT) Law and its Implementing Regulations, and considering that this dispute falls within the scope of tax disputes, it is deemed

to be within the jurisdiction of the Committee for the Adjudication of Income Tax Violations and Disputes, in accordance with Royal Order No. (26040) dated 21/04/1441 AH. Furthermore, as the case was filed by a party with legal standing and within the legally prescribed period, the Department accepts the case in form.

On merits, after reviewing the entire case file and the defenses contained therein, it is evident that the Plaintiff objects to ZATCA's inclusion of all their sales under the local taxable sales subject to the basic rate, as they demand cancellation of the reassessment for the first quarter of 2018 for local sales subject to the basic rate, given that the Plaintiff declared in their return for the first quarter of 2018 an amount of SAR (721,856.21), then corrected their return and considered their sales to be zero. Based on the provisions of the aforementioned Articles, the Defendant requested the Plaintiff to submit supporting documents to validate the correction of their tax return, such as audit balances or bank statements. Due to the failure to submit these, the Defendant adjusted their sales by reassessing the period. The Plaintiff, in their reply memorandum to ZATCA's response memorandum, has indicated the cessation of commercial activity and that the commercial registration was cancelled on 14/01/2018, as well as the absence of any revenues or imports, and that what was declared was done in error and has been corrected. Upon the Department's consideration of the documents submitted by the Plaintiff, which prove the cancellation of the Plaintiff's commercial registration on 14/01/2018, in addition to the absence of imports during the disputed period according to the letter issued by the Customs Authority for the period from 01/01/2018 to 31/03/2018, and the personal bank statement of the Plaintiff covering the disputed period, which indicates the absence of any received amounts that would necessitate declaration. The Plaintiff has submitted sufficient documents to prove the incorrectness of the erroneously declared revenues, which were cancelled by deletion in the return for the disputed period, and whereas the Defendant has not submitted any documents proving otherwise, we find the Defendant's (ZATCA's) procedure in its decision to be unsound.

Regarding item misdeclaration fine, the dispute lies in the imposition of a misdeclaration fine resulting from the final assessment notice for the tax period related to the first quarter of 2018, due to the adjustment of the local taxable sales subject to the basic rate, and whereas the aforementioned items have led to the cancellation of the defendant's decision, and because the misdeclaration fine resulted from this, what is related to it takes the same ruling, with which the Department finds the Defendant's procedure to be unsound.

Regarding item fine for late payment, the dispute lies in the imposition of a fine for late payment resulting from the final assessment notice for the tax period related to the first quarter of 2018, due to the adjustment of the local taxable sales subject to the basic rate, and whereas the aforementioned item has led to the cancellation of the Defendant's decision, and because the fine for late payment resulted from ZATCA's reassessment. Given the above, the Department finds Defendant's action unjustified and deems the imposed fine invalid.

Decision:

First: Accept Plaintiff's case in form.

Second: On Merits: Cancel ZATCA's decision regarding the reassessment of Q4 2018 and the imposition of VAT in the amount of SAR (34,078.89), a misdeclaration fine in the amount of SAR (18,056.40), and a fine for late payment in the amount of SAR (56,203.17).

Third: This decision was issued in the presence of both litigants, and Department set a thirty days' period for receiving a copy of the decision, may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the decision within 30 days from the day following specified delivery date. After expiry of this period, the decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and 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. VTR-2022-123
Case No. V-63092-2021

Key words:
Value Added Tax (VAT) – Final Reassessment – Tax Period - Misdeclaration Fine– Late Payment Fine.

Abstract

The Taxpayer instituted this case moving to cancel ZATCA's decision regarding the final reassessment of the tax period related to the first quarter of 2021, and the imposition of fines for misdeclaration and late payment resulting from the reassessment, concerning the item (Local Sales Subject to the basic rate). The dispute lies in the Defendant's exclusion of the sales adjustment (sales returns), and whereas it became clear to the Department that the Taxpayer did not provide any documents or details clarifying the existence of those bank deposits in their account, and the item (misdeclaration fine) and the item (fine for late payment), and whereas the Department concluded the validity of the Defendant's decision regarding the final reassessment of the tax period in question in the case, and since the disputed fines resulted from and are related to it. Therefore, the Department ruled to dismiss Taxpayer's Case.

Instruments:

- 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
- Common Agreement for Value Added Tax for the Gulf Cooperation Council States, November 2016.
- Paragraph (1) of Article (42) and Article (43) of the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Article (14) of the Implementing Regulations of Value Added Tax Law issued by resolution of the Board of Directors of ZATCA No. (3839) on 14/14/1438 AH.
- Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. (1535) of 11/06/1425 AH

Facts:

Facts of the Case are summed up as follow: The Plaintiff (...), National ID No. (...), in her capacity as Owner of (the establishment...), CR. No. (...), submitted a statement of claim that included an objection to the Defendant's decision regarding the final reassessment of the tax period related to the first quarter of 2021, and the imposition of fines for misdeclaration and late payment resulting from the reassessment, and requests the cancellation of the decision and the imposed fines.
Having presented the statement of claim to Defendant (ZATCA), Defendant answered as follows: The Plaintiff did not fulfill the regulatory requirements, which resulted in the automatic cancellation of the objection request, as they were required to submit a bank guarantee in accordance with the provisions of Article (65) of the Implementing Regulations of the Value Added Tax Law, which demonstrates non-compliance with the necessary regulatory procedures

for submitting the objection. On merits: A tax assessment of the Plaintiff resulted in an amendment to their self-assessment submitted for the tax period of the first quarter of 2021, in accordance with Article (14) of the Implementing Regulations of the Value Added Tax Law. Regarding the Plaintiff's objection to ZATCA's decision to exclude sales returns, ZATCA excluded the sales adjustment (sales returns) after the Plaintiff amended their sales in the adjustments section without providing any document or credit note to prove the validity of the amendment amount. Furthermore, ZATCA attempted to remind them several times to submit the documents supporting the validity of their amendment (attached), but the Plaintiff did not respond to the reminders. In accordance with the provisions of Article (40) and Article (50) of the Implementing Regulations of the Value Added Tax Law, ZATCA excluded those amounts. The Defendant's Representative concluded his memorandum by requesting primarily, that the case be dismissed for lack of form, and subsidiarily, that the case be dismissed on merits End of Answer.

On Wednesday, 19/01/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of The Tax Dispute and Violation Committee Procedures issued by Royal Decree (26040) dated 21/14/1441 AH. Having called parties to case, ... The Plaintiff appeared, (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated .../.../..... AH issued by the Deputy Governor for Legal Affairs. Having asked the Plaintiff about her claims, she maintained her statements outlined in her statement of claims submitted to the General Secretariat of Zakat, Tax, and Customs Committees, while having asked the Defendant about its reply, it also maintained its answers contained in its Plea. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

Having taken cognizance of documents included in Case file, and perused the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by Board of Directors of the General Authority of Zakat and Income Resolution No. (3839) dated 14/12/1438 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, the Department considered the Case:

In form, Since the Plaintiff's claim seeks to object to the final reassessment decision for the tax period of Q1 2021 and the imposition of fines for misdeclaration and late payment resulting from the reassessment, based on the VAT Law and its Implementing Regulations, and given that this dispute falls within the jurisdiction of Committee for Resolution of Income Tax Violations and Disputes , in accordance with Royal Decree No. (26040), dated 21/04/1441 AH, and as the claim was filed by a party with legal standing and within the statutory timeframe, the Department finds it necessary to accept the claim in form.

On merits, Upon reviewing the case documents and examining the responses of both parties, after granting them sufficient time to present their arguments, the Department established that the Defendant (ZATCA) issued a decision regarding the final reassessment for the tax final period of Q1 2021 and the imposition of fines for misdeclaration and late payment resulting from the reassessment. The Department found the following:

First: Regarding the item of local sales subject to the basic rate, it is evident that the dispute lies in the Defendant's exclusion of the sales adjustment (sales returns). Upon reviewing the bank statement submitted by the Plaintiff, it is evident that there are incoming transfers amounting to

SAR (8,908.19) , and other deposits amounting to SAR (45,225.78) , totaling SAR (54,133.97) . However, the Plaintiff did not provide any documents or details clarifying the existence of those bank deposits in their account at the aforementioned value, nor the reasons for disclosing in their tax return for the period under objection an amount of SAR (200,000) as adjustments for the item of sales subject to the basic rate. Based on what is stipulated in Article (14) of the Implementing Regulations of the Value Added Tax Law, which states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom" with which the Department concludes by upholding the validity of the Defendant's procedure.

Second: Regarding the fine for misdeclaration, the Department has ruled to reject Plaintiff's claim and uphold the Defendant's decision regarding the final reassessment for the disputed tax period. Since the disputed fine is a direct result of and linked Item reassessment, it is evident that the Plaintiff made an error in submitting the tax return. Article (42.1) of the VAT Law states: "Any Person who files an incorrect Tax Return to ZATCA, amends a Tax Return after filing or files any document with ZATCA in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due". Accordingly, the Department upholds the validity of Defendant's decision to impose the fine.

Third: Regarding the fine for late payment, and whereas the Department concluded the validity of the Defendant's decision regarding the final reassessment of the tax period in question in the case, and since the disputed fine resulted from and is related to it, it is therefore evident that the plaintiff was late in paying the tax within the legal period. Based on what is stipulated in Article (43) of the Value Added Tax Law, which states: “Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid.” Accordingly, the Department concludes by upholding the validity of the Defendant's procedure in imposing the fine.

In light of the foregoing, and after deliberation, the Department unanimously decided to:

Decision:

- Dismiss the Plaintiff Case.

This decision was issued in the presence of both parties. the Department set Monday, 18/08/1443 AH, corresponding to 21/03/2022, as the date for receiving a copy of the decision. The parties to the case have the right to appeal it within thirty days from the day following the date set for its receipt. In the event that no objection is submitted, it becomes final and enforceable after the expiry of this period.

May Allah’s Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh

Decision No. VTR-2022-128
Case No. R-51894-2021

Key words:
Value Added Tax (VAT) - Final Assessment - Tax Period - Effective Date of Registration - Assessment Notice

Abstract

The Taxpayer instituted this case moving to cancel ZATCA's decision regarding the final assessment for the tax period related to the fourth quarter of 2018, where it was established for the Department regarding the Taxpayer's effective registration date that the plaintiff's effective registration date in the VAT Law was 01/01/2018, which was the result of an error by the Taxpayer, and whereas it became clear to the Department that the Plaintiff did not exceed the mandatory registration threshold, and the Defendant did not provide any evidence to the contrary, and regarding the final assessment for the tax period related to the fourth quarter of 2018, and since the Department concluded to amend the registration date to be after the period that was reassessed. Therefore, the Department ruled to amend the Taxpayer's effective registration date to 27/10/2019, and cancel the Defendant's decision regarding the final assessment for the tax period related to Q4 2018.

Instruments:

- 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
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common VAT Agreement of GCC states of November 2016
- Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. (1535) of 11/06/1425 AH
- Article 65.2 of the The Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly) No. (3839) dated 14/12/1438 AH corresponding to 14/11/2016 AD

Facts:

Facts of the Case are summed up as follows: Mr. ...., ID No. ....., in his own capacity submitted a statement that included an objection to the Defendant's decision regarding the final assessment for the tax period related to the fourth quarter of 2018, and requests the cancellation of the decision.

Upon presenting the statement of claim to the Defendant, ZATCA, they argued that the decision was protected in accordance with Article (49) of the VAT Law and Article (3) of The Tax Dispute and Violation Committee Procedures, as the decision was issued on 25/04/2021 and no objection

was filed with ZATCA within the legal period. Defendant's representative concluded his memorandum by requesting case inadmissibility in form.
The Plaintiff also submitted a response stating the following: Having reviewed the response of the General Authority of Zakat and Income (GAZT), I hereby inform you of my lack of conviction with GAZT's response, as it ignored addressing the substance of the complaint I submitted and relied on Article 49 of the Value Added Tax Law, while it overlooked the clarification that I had submitted a request to reduce the bank guarantee to only SAR (2000) due to circumstances I explained to them and to you. Despite my lack of conviction in the legitimacy of the invoice for the reasons I mentioned in the complaint, GAZT rejected this and reduced it by half for the disputed invoice (the fourth quarter of 2018), and I was unable to complete the objection. I submitted the request on 28/4/2021, i.e., three days after the issuance of the invoice. Noting that the case was registered with you on 25/5/2021, why did GAZT not respond during the elapsed period, and their response only came after the expiry of the sixty (60) day period as they stated? Furthermore, they informed me at the time that I could file directly with the Dispute Resolution Committee without the need to proceed further, and this was also what the customer service at GAZT and the Dispute Resolution Committee informed me. GAZT also stated in their claim during the response that the Plaintiff did not object within the legal period, and therefore GAZT's decision became protected and not subject to objection before any other authority. It is noted that GAZT issued an invoice for sales that did not reach the registration threshold at the time, and therefore I am surprised by GAZT's insistence on its position.
On Wednesday, 03/08/2022, the session was conducted via videoconference, following the remote litigation procedures outlined in Article (15.2) of The Tax Dispute and Violation Committee Procedures, issued by Royal Order No. (26040) dated 21/04/1441 AH. When case parties were called, the Plaintiff appeared in person. Additionally, (...) attended (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated ../../... AH and issued by the Deputy Governor for Legal Affairs. Upon questioning the Plaintiff about their case, they responded in accordance with what was stated in the statement submitted to the General Secretariat of the Zakat, Tax and Customs Committees and adhered to what was stated therein. Upon questioning the Defendant's Representative about their response, they responded by adhering to what was stated in the reply memorandum. The Plaintiff added that they mistakenly amended their effective registration date to ../../..., thinking they were asking about the effective date of the Tax Law in the Kingdom. They requested the amendment of their effective registration date to 27/10/2019. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Therefore, and upon the Department's review of the decision under objection and its connection to the effective date of registration, the Department decided to adjourn session for deliberation before issuing decision.

Grounds

Having taken cognizance of documents included in Case file, and perused the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by Board of Directors of the General Authority of Zakat and Income Resolution No. (3839) dated 14/12/1438 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, the Department considered the Case:
In Form: Since Plaintiff filed the Case to amend their effective registration date in the VAT Law to 27/10/2019, and to object to the Defendant's decision regarding the final assessment for the

tax period related to the fourth quarter of 2018, in accordance with the Law of Value Added Tax and its Implementing Regulations; and since this dispute is a Tax dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes under Royal Decree No. (26040) of 21/04/1441 AH; and since the Case was filed with a party having capacity and within the prescribed statutory period, it is then accepted in form.

Regarding the Defendant's argument of a formal defect consisting of the Plaintiff not initially submitting their objection to ZATCA before filing their case, the response is that the Plaintiff attempted to submit an objection to the Defendant, but they refused to accept the objection request unless a financial guarantee was provided. Upon the Department's review of Article (65.2) of the Implementing Regulations of the Value Added Tax Law, which stipulates that: "In cases where a formal review or appeal is lodged against an appealable decision, and the Authority has evidence or reason to doubt that the Taxable Person may not pay the disputed Tax, the Authority may require a cash security or bank guarantee from the Taxable Person up to a maximum value of the unpaid amount of Tax and associated penalties arising in connection with the decision. A notification requiring cash security or a bank guarantee shall be issued in writing". It turned out that the requirement for a financial guarantee, as per provisions of the mentioned paragraph, is an exception subject to several conditions, including the existence of a case of doubt, an upper limit on the guarantee amount, and the requirement for the guarantee request to be in writing. This confirms that the legislator intended for the financial guarantee requirement in objection cases to be applied in limited circumstances, ensuring that Taxpayer does not lose the right to resort to litigation. After reviewing ZATCA procedure in this matter, the Department found that ZATCA had expanded the requirement for a financial guarantee to apply to all cases of objections to reassessments, contrary to provisions of Paragraph (2) of Article (65) of the Implementing Regulations of the Law of Value Added Tax. Therefore, the Department overlooks ZATCA argument in this regard.

On merits, upon reviewing the case documents and the responses of both parties, after granting them sufficient time to present their arguments and evidence, the Department notes the following: the Plaintiff's effective registration date in the VAT Law was 01/01/2018, which was the result of an error by the Plaintiff as they entered this date thinking they were asking about the effective date of the law. Upon the Department's review of the case file and what was presented therein, it became clear that the Plaintiff did not exceed the mandatory registration threshold, and the Defendant did not provide any evidence to the contrary, with which the Department concludes by accepting the Plaintiff's request in this regard and amending their effective registration date to 27/10/2019

Regarding the Plaintiff's objection to the final assessment for the tax period related to the fourth quarter of 2018, and since the assessment notice is linked to registration in that period, what is related to it takes its ruling. And since the Department concluded to amend the registration date to be after the period that was reassessed, the Department ruled to accept the Plaintiff's claim in this regard and cancel the Defendant's decision.

In light of the foregoing, and after deliberation, the Department unanimously decided to:

Decision:

First: Accept case in form.

Second: Amend the Plaintiff's effective registration date to 27/10/2019

Third: Cancel the Defendant's decision regarding the final assessment for the tax period related to the fourth quarter of 2018.

This decision was issued in the presence of both parties. the Department set Tuesday, 19/08/1443 AH, corresponding to March 22, 2022, as the date for receiving a copy of the decision, and this decision is considered final and enforceable in accordance with the provisions of Article (Forty-Two) 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 Jedd

Decision No. **VTR-2022-132**
Case No. **V-59013-2021**

Key words:
Value Added Tax (VAT) – Final Reassessment – Tax Period - Misdeclaration Fine– Late Payment Fine - Case Dismissed.

Abstract

The Taxpayer instituted this case moving to cancel ZATCA's decision regarding the final reassessment of the tax period related to the first quarter of 2018, and the imposition of fines for misdeclaration and late payment resulting from the reassessment, concerning the item (Purchases), where it is evident that the dispute in this item revolves around the Defendant's adjustment to the purchases item by excluding a number of invoices, and whereas it became clear to the Department that the invoices submitted by the Taxpayer to prove the validity of their claim and their entitlement to the tax deduction do not meet the conditions of a tax invoice, and the item (misdeclaration fine) and the item (late payment fine), and whereas the Department concluded to reject the Taxpayer's claim and uphold the validity of the Defendant's decision regarding the final reassessment of the tax period in question in the case. Therefore, the Department ruled to dismiss Taxpayer's Case.

Instruments:

- 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
- Article (48.1) of Common VAT Agreement of GCC states of November 2016
- Article 43 of the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Article 49.7 of the Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly) No. (3839) dated 14/12/1438 AH corresponding to 14/11/2016 AD
- Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. (1535) of 11/06/1425 AH

Facts:

Facts of this case are summed up as follows: (..... Company), a sole proprietorship, C.R. No. (...), represented by (...), holder of National ID No. (...), in their capacity as an Attorney by virtue of POA No. (...), on behalf of the Plaintiff Company, submitted a statement of claim that included an objection to the Defendant's decision regarding the final reassessment of the tax period related to the first quarter of 2018, and the imposition of fines for misdeclaration and late payment

resulting from the reassessment, and requests the cancellation of the Defendant's decision and the imposed fines.
Having presented the statement of claim to Defendant (ZATCA), Defendant answered as follows: In form: Article (49) of Value Added Tax Law stipulates: "Any person against whom a fine decision is issued may appeal such decision as per Tax Dispute and Violation Committee Procedures" Additionally,
Article 2 of Tax Dispute and Violation Committee Procedures has also stated the following: "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‹... shall decide on the objection within 90 days from the date of filing....." etc. The Plaintiff submitted their objection to the tax periods in question in the case but did not submit the required formal requests for ZATCA to study the objection and issue a decision within the legal timeframe, as they were asked to provide a bank guarantee in accordance with the provisions of Article (65) of the Implementing Regulations of the Value Added Tax Law. However, the Plaintiff did not fulfill the requirements, which resulted in the automatic cancellation of the objection request on 15/06/2021. Article (50) of Value Added Tax Law stipulates: "Subject to the provisions of article (twenty-eight) of the Law, ZATCA shall be responsible for the administration, examination, assessment and collection of Tax, and shall, in so doing, take such measures as it deems fit". Accordingly, the Taxpayer's request to object to that period, which resulted in tax differences, entails ZATCA's right to place these dues in doubt and not to study the objection until payment is made or a bank guarantee is provided for it to be accepted in terms of form. On merits: Regarding the taxation of fixed asset revenues at the basic rate (tax period, 4Q 2018): The reassessment resulted in subjecting revenues of SAR (1,074,262) to tax at the basic rate, as discrepancies were found in revenues between the audited financial statements and the tax returns related to fixed asset sales. Accordingly, ZATCA adjusted the item of local sales subject to tax at the basic rate, in accordance with Article (14) of the Implementing Regulations of the Value Added Tax Law. Regarding the exclusion of purchases that were deducted with amounts not matching the deduction documents (tax invoices): After examining the documents submitted to ZATCA by the Plaintiff, it was found that the value of the supply in invoice number (284) issued by the supplier (...) and invoice number (245) issued by the supplier company (...) did not match the Plaintiff's documents. Therefore, ZATCA excluded the purchases based on Article (48) of the Common VAT Agreement of GCC states and Article (49) of the Implementing Regulations of the Value Added Tax Law. Regarding the exclusion of purchases due to the failure to submit valid deduction documents: ZATCA excluded invoice number (...) issued by the supplier (..... Company) and invoice no. (...) issued by the supplier (...) ZATCA requested the Plaintiff to submit supporting documents for their right to deduction, but the Plaintiff submitted unclear documents. Furthermore, the invoice issued by the supplier (..... Company) violates the requirements of a tax invoice as stated in Article (53) of the Implementing Regulations of the Value Added Tax Law. As a simplified tax invoice was submitted for a supply value exceeding one thousand (Attachment 1), and ZATCA excluded the purchases disclosed in the tax return due to the Plaintiff's failure to submit documents proving their right to deduction, in accordance with Article (53) of the Implementing Regulations of the Value Added Tax Law. Based on the foregoing, a fine for error in submitting the declaration was imposed, based on paragraph (1) of Article (42) of the VAT Law And a fine for late payment was imposed based on the provisions of paragraph (43) of the VAT Law The Defendant's Representative concluded their memorandum by requesting, primarily, that the case be dismissed, and subsidiarily, that the case be rejected. End of Answer.
On Thursday, 21/12/2022, the session was conducted via videoconference, following the remote litigation procedures outlined in Article (15.2) of The Tax Dispute and Violation Committee Procedures, issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the parties to the case, (...) attended in their capacity as the legal representative of the Plaintiff company by virtue of the attached articles of association in the case file. Additionally, (...) attended (Saudi

National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated ../../... AH and issued by the Deputy Governor for Legal Affairs. Upon questioning the Plaintiff's Representative about their case, they responded in accordance with what was stated in the statement submitted to the General Secretariat of the Zakat, Tax and Customs Committees and adhered to what was stated therein. Upon questioning the Defendant's Representative about their response, they responded by adhering to what was stated in the reply memorandum. Therefore, the Department decided to postpone the consideration of the case to January 9, 2022, at 4 PM, provided that the Plaintiff submits evidence for their claim before December 24, and that the Defendant reviews and submits their response to that before December 30. The Department emphasized that both parties must submit the required documents within the specified deadlines. If a party fails to comply without an acceptable excuse, this will be considered a refusal to proceed, in accordance with Article 112 of the Law of Civil Procedures.

The Plaintiff's Attorney also submitted a Reply stating the following: In form: Concerning the claim by ZATCA to automatically cancel the objection in accordance with Article (65) of the Implementing Regulations of the Value Added Tax Law regarding the requirement for bank guarantees requested by ZATCA whose decision is being challenged to consider the tax objection, however, the same article stipulated the following conditions for ZATCA's request for this guarantee, and these mandatory conditions are: 1. According to the first paragraph of the article, ZATCA may request a bank guarantee through a written notification addressed to the party required to pay the tax, and that the bank guarantee shall have a term of twenty days, with the objector being given a twenty-day period from the date of notification by written notice to provide the bank guarantee. Due to the effects of the Coronavirus pandemic that affected everyone, we were unable to provide the bank guarantee amount at that time, and the first paragraph of Article (65) upon which it was based considered the matter optional and not mandatory. 2. This confirms that the matter is up to ZATCA in its demand for a bank guarantee from us, as paragraph "2" of the same article emphasized that ZATCA may decide to demand the provision of a guarantee if it sees that the party required to pay the tax may not be able to pay it, and in that case, ZATCA may demand the guarantee. Therefore, there is no basis to consider the objection unacceptable from our side because the legal conditions for considering it automatically rejected under Article (65) upon which it was based have not been met, which confirms the fulfillment of the formal aspect of the objection submitted by us. On merits, we would like to clarify the following: First: Regarding the invoice for the fourth quarter of 2018, number (...): The Defendant stated that the reason for this adjustment in the return for the fourth quarter of 2018 was the exclusion of fixed assets, despite the fact that the company had purchased a property (private residence for the General Manager and his family) and it was included in the assets. Upon the death of the company's owner, the asset was sold to be distributed to the heirs. At the time of the sale, we contacted the Defendant, ZATCA, by phone and asked them if the sale of this asset should be subject to 5% Value Added Tax. The answer from ZATCA was negative. Accordingly, a sale contract was drawn up between us and the buyer through the office of (...) under contract number 25152, and 5% Value Added Tax was not mentioned in the sale contract, nor was 5% paid by the buyer according to ZATCA's instructions via phone. It is known to your Excellency that the tax is imposed on the buyer, not the seller. Now, they are demanding from us an amount of 5% tax on the sale of this asset, and we object to this amount. Attached are the sale contract and all the documents for the sale of the asset, which necessitates the cancellation of invoice number (...) and everything related to it, including fines. Second: 1. Tax assessment invoice number (...) related to the first quarter of 2018, "attached invoice number 284" for a 6-month lease, which is a correct and tax-paid invoice to the supplier. However, at that time, the tax application was new, and the accountant recorded the tax based on the amount paid to the supplier, which is an excess of SAR 1699 over invoice number (284). It is certain that the supplier (.... Company) submitted their tax return for that period, which includes that invoice. This calls for applying and approving the correct amount on

the invoice, which is SAR 32,500 , and the tax paid on it is SAR 1625, and only the excess amount of SAR 1699 , including its tax of SAR 81 , should be returned to us. That is, the excess tax amount that should be returned to us is only SAR 81 instead of rejecting the entire invoice. We may ask, was the invoice rejected as sales for the lessor when they submitted their tax return? Of course, it was accepted, and the tax they collected from us was paid to ZATCA. Therefore, if it is returned to us, we would have paid the tax twice, once through the lessor and once directly to ZATCA. Is this logical and acceptable? As the lease is correct and the tax calculated on it has been paid, noting that the invoice is correct and has been fully paid, in addition to an old amount from a previous period, and the payment transfer is attached within the tax assessment invoice for the first quarter of 2018. 2. Invoice number (...) dated ../../... for purchases of electrical materials from (..... Company) It was previously attached within a sample of purchase invoices but was not seen or reviewed by the Defendant. The invoice is correct and paid to the supplier with the calculated tax. It is certain that the supplier submitted it within their tax return for that period, and we are attaching it again now. We request that the necessary action be taken to approve it. Third: Tax assessment invoice number (...) for the second quarter of 2018, where purchase invoice number 245 dated 3/4/2018 for exhibition shields issued by Agency (...) was rejected because the amount did not match. As we paid an amount greater than the invoice amount in exchange for materials on consignment that were not included in the invoice, and as the tax was newly applied at that time and the accountant performed his calculations based on the amount paid to the supplier, the correct amount on the invoice, which is SAR 16,900 as the invoice value and SAR 845 in tax paid to the supplier, should be approved. It is certain that the supplier submitted that invoice within their tax return for that period, which necessitates the approval of the SAR 845 tax paid on the invoice and the return of the excess tax of only SAR 125. That is, the excess tax amount over the invoice that should be returned to us is only SAR 125, as the invoice is correct and paid with the excess, instead of rejecting the entire invoice. Fourthly: Tax assessment invoice number (...) for the first quarter of 2019, resulting from the absence of purchase invoices from the supplier company (...) number 19982 for SAR 2836.19, as well as the supplier invoice (...) no. (...) no. (...) for SAR 5530 . We confirm that we have previously submitted all the sample purchase invoices requested by ZATCA, related to 2019, including the supplier invoice company (...) number 19982 dated 21/2/2019 for SAR 2836.19 with SAR 141.80 in tax, and its order in the sample invoices is number 2, as well as the supplier invoice (...) No. (...) dated 14/3/2019 for SAR 5530 with 276.5 in tax, and its order in the sample invoices is number 3, but they were not seen or reviewed by the Defendant. Attached to you are these two invoices as we received them from the supplier, and it is certain that the supplier submitted these invoices within their tax return for that period and they were approved for them, and the tax they collected from us for those invoices was paid. We request the approval of the two invoices as they are correct and paid to the suppliers. The Defendant, ZATCA, submitted a defense memorandum, stating the following: Upon reviewing what the Plaintiff submitted in the case file, ZATCA summarizes its response as follows: 1. ZATCA confirms its previous arguments that the invoice submitted for the supplier company (...) was inconsistent with the statement provided by the Plaintiff during the examination stage and was excluded for this reason, based on the provisions of Article 48 of the Common VAT Agreement of GCC states and Article 49 of the Implementing Regulations of the Value Added Tax Law. 2. Regarding the invoice submitted for the supplier (...), it was inconsistent with the conditions stated in Article (53) of the Implementing Regulations of the VAT Law, as the invoice lacked the name of the customer, the Plaintiff, and their tax address. Therefore; ZATCA adheres to its previous arguments presented in the reply memorandum to the Plaintiff's statement of claim. This concludes Defendant's response.

On Sunday, 09/01/2022, the session was held via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. When calling litigants, Mr. (...) attended in his capacity as Representative of the Plaintiff Company by

virtue of the attached articles of association in the case file. Additionally, (...) attended (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated ../../... AH and issued by the Deputy Governor for Legal Affairs. At the beginning of the session, the Department reviewed the invoices attached by the Plaintiff and heard the statements of both parties regarding them. Based on this, the Department decided to clear the room for deliberation and to issue the decision.

Grounds

Having taken cognizance of documents included in Case file, and perused the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by Board of Directors of the General Authority of Zakat and Income Resolution No. (3839) dated 14/12/1438 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, the Department considered the Case:

In form, Since the Plaintiff's claim seeks to object to the final reassessment decision for the tax period of Q1 2018 and the imposition of fines for misdeclaration and late payment resulting from the reassessment, based on the VAT Law and its Implementing Regulations, and given that this dispute falls within the jurisdiction of Committee for Resolution of Income Tax Violations and Disputes , in accordance with Royal Decree No. (26040), dated 21/04/1441 AH, and as the claim was filed by a party with legal standing and within the statutory timeframe, the Department finds it necessary to accept the claim in form.

On merits, Upon reviewing the case documents and examining the responses of both parties, after granting them sufficient time to present their arguments, the Department established that the Defendant (ZATCA) issued a decision regarding the final reassessment for the tax final period of Q1 2018 and the imposition of fines for misdeclaration and late payment resulting from the reassessment. The Department found the following:

First: Purchases item: It is evident that the dispute in this item revolves around the Defendant's adjustment to the purchases item by excluding a number of invoices, and whereas the invoices submitted by the Plaintiff to prove the validity of their claim and their entitlement to the tax deduction do not meet the conditions of a tax invoice, and whereas the first paragraph of Article (48) of the Common VAT Agreement of GCC states stipulates that: "For the purpose of exercising the right to deduction, the taxable person must possess the following documents:" A. "The tax invoice obtained in accordance with the provisions of this Agreement..." Furthermore, Article (49.7) of the Implementing Regulations of the Value Added Tax Law stipulates that: "Input VAT may not be deducted unless the taxable person has evidence that the amount of input VAT paid or due is in accordance with the provisions specified in Article (48) of this Agreement. In cases where the taxable person does not possess the required documents as specified in the Agreement, they may claim the deduction if they are able to provide the following alternative evidence to ZATCA: A. a Simplified Tax Invoice which is correctly issued in accordance with these Regulations". C. Other commercial documents permitted at the discretion of ZATCA, proving that the taxable person was correctly charged and has paid the relevant VAT. Based on the above, the Department rejects Plaintiff's claim in this regard.

Second: Regarding the fine for misdeclaration, the Department has ruled to reject Plaintiff's claim and uphold the Defendant's decision regarding the final reassessment for the disputed tax period. Since the disputed fine is a direct result of and linked Item reassessment, it is evident that the Plaintiff made an error in submitting the tax return. Article (42.1) of the VAT Law states: "Any

Person who files an incorrect Tax Return to ZATCA, amends a Tax Return after filing or files any document with ZATCA in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due". Accordingly, the Department upholds the validity of Defendant's decision to impose the fine.

Third: Regarding the fine for an late in the tax payment, the Department has ruled to reject Plaintiff's claim and uphold the Defendant's decision regarding the final reassessment for the disputed tax period. Since the disputed fine is a direct result of and linked Item reassessment, it is evident that the Plaintiff made an late in tax within the statutory period tax return. Article (43) of the VAT Law states: "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid." Accordingly, the Department concludes by upholding the validity of the Defendant's procedure in imposing the fine.

In light of the foregoing, and after deliberation, the Department unanimously decided to:

Decision:

Dismiss Plaintiff Case.

This decision was issued in the presence of both parties, in accordance with Article (56) of the Law of Civil Procedures. The Department has set Tuesday, 19/08/1443 AH (corresponding to 22/03/2022) as the date for receiving a copy of the decision. This decision is final and enforceable in accordance with Article (42) of Tax Violations and Disputes Committee Procedures.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Key words:
Value Added Tax (VAT) – Final Reassessment – Tax Period – Misdeclaration Fine - Late Payment Fine.

Abstract

The Taxpayer instituted this case moving to cancel ZATCA's decision regarding the final reassessment of the tax period related to the second quarter of 2018, and the imposition of fines for misdeclaration and late payment resulting from the reassessment, concerning the item (Purchases Subject to 5% Rate), where it is evident that the dispute in this item revolves around the Defendant's adjustment to the purchases item by excluding a number of invoices, and whereas it became clear to the Department that the taxable person has been correctly charged and has paid the relevant Value Added Tax, and the item (misdeclaration fine) and the item (late payment fine), and whereas the Department concluded to reject the Taxpayer's claim and uphold the validity of the Defendant's decision regarding the final reassessment of the tax period in question in the case. Therefore, the Department ruled to dismiss Taxpayer's Case.

Instruments:

- 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
- Article (48.1) of Common VAT Agreement of GCC states of November 2016
- Articles (42.1) and (43) of Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH.
- Article 49.7 of the Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly) No. (3839) dated 14/12/1438 AH corresponding to 14/11/2016 AD
- Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. (1535) of 11/06/1425 AH

Facts:

The facts of this case are summed up as follows: (.....) Company, (a sole proprietorship), C.R. No.(...), represented by (...), holder of National ID No. (...), in their capacity as an Attorney by virtue of POA No. (...), on behalf of the Plaintiff company, submitted a statement of claim that included an objection to the Defendant's decision regarding the final reassessment of the tax period related to the second quarter of 2018, and the imposition of fines for misdeclaration and late payment resulting from the reassessment, and requests the cancellation of the Defendant's decision and the imposed fines.

Having presented the statement of claim to Defendant (ZATCA), Defendant answered as follows: In form: Article (49) of Value Added Tax Law stipulates: "Any person against whom a fine decision

is issued may appeal such decision as per Tax Dispute and Violation Committee Procedures" Article 2 of Tax Dispute and Violation Committee Procedures has also stated the following: "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‘... shall decide on the objection within 90 days from the date of filing....." etc. The Plaintiff submitted their objection to the tax periods in question in the case but did not submit the required formal requests for ZATCA to study the objection and issue a decision within the legal timeframe, as they were asked to provide a bank guarantee in accordance with the provisions of Article (65) of the Implementing Regulations of the Value Added Tax Law. However, the Plaintiff did not fulfill the requirements, which resulted in the automatic cancellation of the objection request on 15/06/2021. Article (50) of Value Added Tax Law stipulates: "Subject to the provisions of Article (28) of the Law, ZATCA shall be responsible for the administration, examination, assessment and collection of Tax, and shall, in so doing, take such measures as it deems fit". Accordingly, the Taxpayer's request to object to that period, which resulted in tax differences, entails ZATCA's right to place these dues in doubt and not to study the objection until payment is made or a bank guarantee is provided for it to be accepted in terms of form. On merits: Regarding the taxation of fixed asset revenues at the basic rate (tax period, 4Q 2018): The reassessment resulted in subjecting revenues of SAR (1,074,262) to tax at the basic rate, as discrepancies were found in revenues between the audited financial statements and the tax returns related to fixed asset sales. Accordingly, ZATCA adjusted the item of local sales subject to tax at the basic rate, in accordance with Article (14) of the Implementing Regulations of the Value Added Tax Law. Regarding the exclusion of purchases that were deducted with amounts not matching the deduction documents (tax invoices): After examining the documents submitted to ZATCA by the Plaintiff, it was found that the value of the supply in invoice number (284) issued by the supplier (... Company) and invoice no. (...) issued by the supplier (...) did not match the Plaintiff's documents. Therefore, ZATCA excluded the purchases based on Article (48) of the Common VAT Agreement of GCC states and Article (49) of the Implementing Regulations of the Value Added Tax Law. Regarding the exclusion of purchases due to the failure to submit valid deduction documents: ZATCA excluded invoice number (...) issued by the supplier (... Company) and invoice no. (...) issued by the supplier (...) ZATCA requested the Plaintiff to submit supporting documents for their right to deduction, but the Plaintiff submitted unclear documents. Furthermore, the invoice issued by the supplier (..... Company) violates the requirements of a tax invoice as stated in Article (53) of the Implementing Regulations of the Value Added Tax Law. As a simplified tax invoice was submitted for a supply value exceeding one thousand (Attachment 1), and ZATCA excluded the purchases disclosed in the tax return due to the Plaintiff's failure to submit documents proving their right to deduction, in accordance with Article (53) of the Implementing Regulations of the Value Added Tax Law. Based on the foregoing, a fine for error in submitting the declaration was imposed, based on paragraph (1) of Article (42) of the VAT Law And a fine for late payment was imposed based on the provisions of paragraph (43) of the VAT Law The Defendant's Representative concluded their memorandum by requesting, primarily, that the case be dismissed, and subsidiarily, that the case be rejected. End of Answer.

On Tuesday, 21/12/2022, the session was held via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. When calling litigants, Mr.(...) attended in his capacity as Representative of the Plaintiff Company by virtue of the attached articles of association in the case file. Additionally, (...) attended (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated ../../... AH and issued by the Deputy Governor for Legal Affairs. Upon questioning the Plaintiff's representative about their case, they responded in accordance with what was stated in the statement submitted to the General Secretariat of the Zakat, Tax and Customs Committees and adhered to what was stated therein. Upon questioning the Defendant's representative about their response, they responded by adhering to what was

stated in the reply memorandum. Therefore, the Department decided to postpone the consideration of the case to January 9, 2022, at 4 PM, provided that the Plaintiff submits evidence for their claim before December 24, and that the Defendant reviews and submits their response to that before December 30. The Department emphasized that both parties must submit the required documents within the specified deadlines. If a party fails to comply without an acceptable excuse, this will be considered a refusal to proceed, in accordance with Article 112 of the Law of Civil Procedures.

The Plaintiff's Attorney also submitted a Reply stating the following: In form: Concerning the claim by ZATCA to automatically cancel the objection in accordance with Article (65) of the Implementing Regulations of the Value Added Tax Law regarding the requirement for bank guarantees requested by ZATCA whose decision is being challenged to consider the tax objection, however, the same article stipulated the following conditions for ZATCA's request for this guarantee, and these mandatory conditions are: 1. According to the first paragraph of the article, ZATCA may request a bank guarantee through a written notification addressed to the party required to pay the tax, and that the bank guarantee shall have a term of twenty days, with the objector being given a twenty-day period from the date of notification by written notice to provide the bank guarantee. Due to the effects of the Coronavirus pandemic that affected everyone, we were unable to provide the bank guarantee amount at that time, and the first paragraph of Article (65) upon which it was based considered the matter optional and not mandatory. 2. This confirms that the matter is up to ZATCA in its demand for a bank guarantee from us, as paragraph (2) of the same Article emphasized that ZATCA may decide to demand the provision of a guarantee if it sees that the party required to pay the tax may not be able to pay it, and in that case, ZATCA may demand the guarantee. Therefore, there is no basis to consider the objection unacceptable from our side because the legal conditions for considering it automatically rejected under Article (65) upon which it was based have not been met, which confirms the fulfillment of the formal aspect of the objection submitted by us. On merits, we would like to clarify the following: First: Regarding the invoice for the fourth quarter of 2018, number (...): The Defendant stated that the reason for this adjustment in the return for the fourth quarter of 2018 was the exclusion of fixed assets, despite the fact that the company had purchased a property (private residence for the General Manager and his family) and it was included in the assets. Upon the death of the company's owner, the asset was sold to be distributed to the heirs. At the time of the sale, we contacted the Defendant, ZATCA, by phone and asked them if the sale of this asset should be subject to 5% Value Added Tax. The answer from ZATCA was negative. Accordingly, a sale contract was drawn up between us and the buyer through the office of (...) under contract number 25152, and 5% Value Added Tax was not mentioned in the sale contract, nor was 5% paid by the buyer according to ZATCA's instructions via phone. It is known to your Excellency that the tax is imposed on the buyer, not the seller. Now, they are demanding from us an amount of 5% tax on the sale of this asset, and we object to this amount. Attached are the sale contract and all the documents for the sale of the asset, which necessitates the cancellation of invoice number (...) and everything related to it, including fines. Second: 1. Tax assessment invoice number (...) related to the first quarter of 2018, "attached invoice number (...) for a 6-month lease, which is a correct and tax-paid invoice to the supplier. However, at that time, the tax application was new, and the accountant recorded the tax based on the amount paid to the supplier, which is an excess of 1699 over invoice number (...). It is certain that the supplier (... Company) submitted their tax return for that period, which includes that invoice. This calls for applying and approving the correct amount on the invoice, which is SAR 32,500, and the tax paid on it is SAR 1625, and only the excess amount of SAR 1699 , including its tax of SAR 81, should be returned to us. That is, the excess tax amount that should be returned to us is only 81 instead of rejecting the entire invoice. We may ask, was the invoice rejected as sales for the lessor when they submitted their tax return? Of course, it was accepted, and the tax they collected from us was paid to ZATCA. Therefore, if it is returned to us, we would have paid the tax twice, once through the lessor and once directly to ZATCA. Is this logical and

acceptable? As the lease is correct and the tax calculated on it has been paid, noting that the invoice is correct and has been fully paid, in addition to an old amount from a previous period, and the payment transfer is attached within the tax assessment invoice for the first quarter of 2018. 2. Invoice number (...) dated 13/01/2018 for purchases of electrical materials from (... Company) It was previously attached within a sample of purchase invoices but was not seen or reviewed by the Defendant. The invoice is correct and paid to the supplier with the calculated tax. It is certain that the supplier submitted it within their tax return for that period, and we are attaching it again now. We request that the necessary action be taken to approve it. Third: Tax assessment invoice number (...) for the second quarter of 2018, where purchase invoice number 245 dated 3/4/2018 for exhibition shields issued by agency (...) was rejected because the amount did not match. As we paid an amount greater than the invoice amount in exchange for materials on consignment that were not included in the invoice, and as the tax was newly applied at that time and the accountant performed his calculations based on the amount paid to the supplier, the correct amount on the invoice, which is SAR 16,900 as the invoice value and SAR 845 in tax paid to the supplier, should be approved. It is certain that the supplier submitted that invoice within their tax return for that period, which necessitates the approval of the SAR 845 tax paid on the invoice and the return of the excess tax of only SAR 125. That is, the excess tax amount over the invoice that should be returned to us is only SAR 125, as the invoice is correct and paid with the excess, instead of rejecting the entire invoice. Fourthly: Tax assessment invoice number (...) for the first quarter of 2019, resulting from the absence of purchase invoices from the supplier company (...) No. (...) for SAR 2836.19 , as well as the supplier invoice (...) No. (...) number (...) for SAR 5530 . We confirm that we have previously submitted all the sample purchase invoices requested by ZATCA, related to 2019, including the supplier invoice company (...) No. (...) dated ../../... for 2836.19 with 141.80 in tax, and its order in the sample invoices is number 2, as well as the supplier invoice (...) No. (...) dated ../../... for SAR 5530 with 276.5 in tax, and its order in the sample invoices is number 3, but they were not seen or reviewed by the Defendant. Attached to you are these two invoices as we received them from the supplier, and it is certain that the supplier submitted these invoices within their tax return for that period and they were approved for them, and the tax they collected from us for those invoices was paid. We request the approval of the two invoices as they are correct and paid to the suppliers.

The Defendant, ZATCA, submitted a defense memorandum, stating the following: Upon reviewing what the Plaintiff submitted in the case file, ZATCA summarizes its response as follows: 1. ZATCA confirms its previous arguments that the invoice submitted for the supplier (... Company) was inconsistent with the statement provided by the Plaintiff during the examination stage and was excluded for this reason, based on the provisions of Article 48 of the Common VAT Agreement of GCC states and Article 49 of the Implementing Regulations of the Value Added Tax Law. 2. Regarding the invoice submitted for the supplier (...), it was inconsistent with the conditions stated in Article (53) of the Implementing Regulations of the Value Added Tax Law, as the invoice lacked the name of the customer , the Plaintiff, and their tax address. Therefore; ZATCA adheres to its previous arguments presented in the reply memorandum to the Plaintiff's statement of claim. This concludes Defendant's response.

On Sunday, 09/01/2022, the session was held via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. When calling litigants, Mr. (...) attended in his capacity as Representative of the Plaintiff Company by virtue of the attached articles of association in the case file. Additionally, (...) attended (Saudi, ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated ../../... AH and issued by the Deputy Governor for Legal Affairs. At the beginning of the session, the Department reviewed the invoices attached by the Plaintiff and heard the statements of both parties regarding them. Based on this, the Department decided to clear the room for deliberation and to issue the decision.

Grounds

Having taken cognizance of documents included in Case file, and perused the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by Board of Directors of the General Authority of Zakat and Income Resolution No. (3839) dated 14/12/1438 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, the Department considered the Case:

In form, Since the Plaintiff aims with their case to object to the final reassessment for the tax period related to the second quarter of 2018, and the imposition of fines for misdeclaration and late payment resulting from the reassessment, based on the VAT Law and its Implementing Regulations, and given that this dispute falls within the jurisdiction of Committee for Resolution of Income Tax Violations and Disputes , in accordance with Royal Decree No. (26040), dated 21/04/1441 AH, and as the claim was filed by a party with legal standing and within the statutory timeframe, the Department finds it necessary to accept the claim in form.

On Merits, Upon reviewing the case documents and examining the responses of both parties, after granting them sufficient time to present their arguments, the Department established that the Defendant (ZATCA) issued a decision regarding the final reassessment for the tax period related to the second quarter of 2018, and the imposition of fines for misdeclaration and late payment resulting from the reassessment. The Department found the following:

First: Purchases subject to the 5% rate: It is evident that the dispute in this item revolves around the Defendant's adjustment to the purchases item by excluding a number of invoices, and whereas the invoices submitted by the Plaintiff to prove the validity of their claim and their entitlement to the tax deduction do not meet the conditions of a tax invoice, and whereas the first paragraph of Article (48) of the Common VAT Agreement of GCC states stipulates that: "For the purpose of exercising the right to deduction, the taxable person must possess the following documents:" A. "The tax invoice obtained in accordance with the provisions of this Agreement..." Furthermore, Article (49.7) of the Implementing Regulations of the Value Added Tax Law stipulates that: “Input VAT may not be deducted unless the taxable person has evidence that the amount of input VAT paid or due is in accordance with the provisions specified in Article (48) of this Agreement. In cases where the taxable person does not possess the required documents as specified in the Agreement, they may claim the deduction if they are able to provide the following alternative evidence to ZATCA: A. a Simplified Tax Invoice which is correctly issued in accordance with these Regulations”. C. Other commercial documents permitted at the discretion of ZATCA, proving that the taxable person was correctly charged and has paid the relevant VAT. Based on the above, the Department rejects Plaintiff's claim in this regard.

Second: Regarding the fine for misdeclaration, the Department has ruled to reject Plaintiff's claim and uphold the Defendant's decision regarding the final reassessment for the disputed tax period. Since the disputed fine is a direct result of and linked Item reassessment, it is evident that the Plaintiff made an error in submitting the tax return. Article (42.1) of the VAT Law states: "Any Person who files an incorrect Tax Return to ZATCA, amends a Tax Return after filing or files any document with ZATCA in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due". Accordingly, the Department upholds the validity of Defendant's decision to impose the fine.

Third: Regarding the fine for an late in the tax payment, the Department has ruled to reject Plaintiff's claim and uphold the Defendant's decision regarding the final reassessment for the disputed tax period. Since the disputed fine is a direct result of and linked Item reassessment, it is evident that the Plaintiff made an late in tax within the statutory period tax return. Article (43) of the VAT Law states: "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid." Accordingly, the Department concludes by upholding the validity of the Defendant's procedure in imposing the fine.
In light of the foregoing, and after deliberation, the Department unanimously decided to:

Decision:

Dismiss Plaintiff Case.
This decision was issued in the presence of both parties, in accordance with Article (56) of the Law of Civil Procedures. The Department has set Tuesday, 19/08/1443 AH (corresponding to 22/03/2022) as the date for receiving a copy of the decision. This decision is final and enforceable in accordance with Article (42) of Tax Violations and Disputes 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 Third Department to Adjudicate Value Added Tax Violations and Disputes inRiyadh

Decision No. VTR-2022-186
Case No. V-66313-2021

Key words:

Value Added Tax (VAT) – Final Reassessment – Tax Period – Local Sales Subject to Basic Rate - Misdeclaration Fine - Late Payment Fine.

Abstract

The Taxpayer instituted this case moving to cancel ZATCA's decision regarding the final reassessment for the tax period related to the first quarter of 2020, and the imposition of fines for misdeclaration and late payment resulting from the reassessment, concerning the item (Local Sales Subject to Tax at the basic rate), where the Defendant adjusted the item of local sales subject to tax at the basic rate, and whereas it became clear to the Department that the tax was remitted to ZATCA on this property sold by the heirs, and regarding the imposition of fines for misdeclaration and late payment, as the Department's decision in item (First) has led to not supporting the Defendant in its procedure, and since the misdeclaration fine resulted from that, what is related to it takes the same ruling. Therefore, the Department ruled to cancel the Defendant's decision regarding the final reassessment for the tax period related to the first quarter of 2020.

Instruments:

- 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
- Article (27.2), Article (42.1), and Article (43) of the Value Added Tax (VAT) Law, issued pursuant to Royal Decree No. (M/113), dated 02/11/1438 AH.
- Common VAT Agreement of GCC states of November 2016
- Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. (1535) of 11/06/1425 AH
- Article 59.1 of the Implementing Regulations of the Value Added Tax Law issued by the Board Decision No. (3839) of 14/11/2016 AD of the General Authority of Zakat and Income (formerly) No. (3839) dated 14/12/1438 AH corresponding to 14/11/2016 AD

Facts:

Facts of the case are summarized that ....., ID No. (.....), in his own capacity, submitted a statement of claim that included their objection to the Defendant's decision regarding the final reassessment for the tax period related to the first quarter of 2020, and the imposition of fines for misdeclaration and late payment resulting from the reassessment, and requests the cancellation of the decision and the imposed fines.

Having presented the statement of claim to Defendant (ZATCA), Defendant answered as follows: In form: Article (49) of Value Added Tax Law stipulates: "Any person against whom a fine decision is issued may appeal such decision as per Tax Dispute and Violation Committee Procedures"

Article 2 of Tax Dispute and Violation Committee Procedures has also stated the following: "Any person against whom a decision has been issued by GAZT may file an objection before it within 60 days from the date of notification thereof. GAZT shall decide on the objection within 90 days from the date of filing. If a decision is made to deny the objection or a period of 90 days lapses without deciding thereon, a Taxpayer may, within 30 days from the date of being notified of the denial of the objection or upon the lapse of 90 days without a decision thereon, take any of the following actions: 2. File a case directly before the dispute committee". Based on the foregoing, the Plaintiff was required to first submit his objection to Zakat, Tax, and Customs Authority before filing his case with the General Secretariat of Tax Committees. This renders the case procedurally flawed for being filed with the Secretariat before fulfilling this prerequisite. On merits: First: Decision is presumed to be valid and sound, and whoever claims otherwise shall provide proof supporting his claims. Second: Second: ZATCA exercised its powers granted to it by paragraph (1) of Article (26) of the Value Added Tax Law, which states: "1. The Authority may conduct a tax assessment of a taxable person irrespective of the tax return filed by him." Additionally, Paragraph (1) of Article (64) of the Implementing Regulations of the VAT Law states: "ZATCA may make an assessment of the VAT obligations of a Person in respect of one or more Tax Periods. This resulted in the adjustment of the item of local sales subject to tax at the basic rate, as upon reviewing the Plaintiff's data with the Ministry of Justice, it was found that there were revenues not disclosed in their tax return for the period in question in the case. (Attached). Based on this, ZATCA requested additional documents from the Plaintiff to justify those differences (attached), but the Plaintiff did not provide any evidence to refute what ZATCA concluded in its decision. Therefore, ZATCA subjected those sales to the item in question in the case. Third: regarding the fine for late payment and the fine for submitting an incorrect tax return for the tax period in question in the case, after reviewing the Plaintiff's return for the period under objection, and after it became clear to ZATCA that it was incorrect, as the issuance of ZATCA's final assessment decision resulted in a difference in the amount of tax due that was not paid within the legal deadline. Based on this, a fine for late payment was imposed for the months following the tax period under objection in accordance with Article (43) of the Value Added Tax Law, which states, "Anyone who fails to pay the due tax within the period specified by the regulations shall be penalized with a fine equivalent to (5%) of the value of the unpaid tax for each month or part thereof for which the tax has not been paid," and a fine for error in submitting the return based on paragraph (1) of Article (42). The Defendant's representative concluded their memorandum by requesting, primarily, the dismissal of the case for lack of form, and subsidiarily, the rejection of the case. End of Answer.

On Sunday, 11/09/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Decree (26040) dated 21/14/1441 AH. Having called parties to case, ... Plaintiff's attorney, (Saudi) attended by virtue of POA No. (...) and ID No.(...) Additionally, (...) attended (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated ../../... AH and issued by the Deputy Governor for Legal Affairs. Upon questioning the Plaintiff's Attorney about their case, they responded in accordance with what was stated in the statement submitted to the General Secretariat of the Zakat, Tax and Customs Committees and adhered to what was stated therein. Upon questioning the Defendant's representative about their response, they responded by adhering to what was stated in the reply memorandum and requested that the case be dismissed for lack of form, and stated that ZATCA had contacted the Plaintiff three times without a response. Upon presenting this to the Plaintiff's Attorney, they requested a period of time. Therefore, the Department decided to postpone the consideration of the case to the next session scheduled for January 16, 2022, at 4 PM. The Plaintiff's Attorney is to submit what they requested time for before January 9, and the Defendant is to review and respond before January 13.

On Sunday, 16/01/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Decree (26040) dated 21/14/1441 AH. Having called parties to case, ... Plaintiff's attorney, (Saudi) attended by virtue of POA No. (...) and ID No.(...) Additionally, (...) attended (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated ../../... AH and issued by the Deputy Governor for Legal Affairs. At the beginning of the session, the Department reviewed the case file and it became apparent that the Plaintiff had not submitted what was requested of them in the previous session. Upon questioning the Plaintiff's Attorney about this, they replied that they had contacted the Secretariat regarding this matter and were informed to submit it in the session. They provided the Department with three documents, and upon the Department's review of them, the validity of their claim that the transferred property belongs to the heirs was not established, nor did those documents include the Plaintiff's response to the formal plea. Therefore, the Department decided to postpone the consideration of the case to the next session scheduled for January 30, 2022, at 4 PM. The Plaintiff's Attorney is to submit what they requested time for before January 23, and the Defendant is to review and respond before January 26. In the event that the parties are delayed without an excuse acceptable to the Department, this shall be considered a refusal according to the provisions of Article One Hundred and Twelve of the Code of Civil Procedure.

On Sunday, 30/01/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Decree (26040) dated 21/14/1441 AH. Having called parties to case, ... Plaintiff's attorney, (Saudi) attended by virtue of POA No. (...) and ID No.(...) Additionally, (...) attended (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated ../../... AH and issued by the Deputy Governor for Legal Affairs. Upon questioning the Plaintiff's Attorney about ZATCA's plea regarding the formal aspect, they stated that their client was not officially notified, but rather became aware of it during the course of some regular procedures. As the Department was not satisfied with the validity of the notification, it deems it appropriate to proceed with hearing the case and to overlook the formal aspect. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

Having taken cognizance of documents included in Case file, and perused the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by Board of Directors of the General Authority of Zakat and Income Resolution No. (3839) dated 14/12/1438 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, the Department considered the Case:

In form, Since the Plaintiff's aims with their case to object to what resulted from the final reassessment for the tax period related to the first quarter of 2020, and the imposition of fines for misdeclaration and late payment resulting from the reassessment, based on the Value Added Tax Law and its implementing regulations, and as this dispute is a tax dispute, it is considered among the disputes falling within the jurisdiction of the Committee for the Settlement of Income Tax Violations and Disputes pursuant to Royal Decree No. (26040) dated 21/04/1441 AH, and as the

case was filed by a party with standing, and as the Department was not satisfied with the validity of the notification, it deems it appropriate to proceed with hearing the case and to overlook the formal aspect.
In Merits, Upon reviewing the case documents and examining the responses of both parties, after granting them sufficient time to present their arguments, the Department established that the Defendant (ZATCA) issued a decision regarding the final reassessment for the tax period related to the first quarter of 2020, and the imposition of fines for misdeclaration and late payment resulting from the reassessment. The Department found the following:
First: Local Taxable Sales at Basic Rate: The Defendant adjusted the item of local sales subject to tax at the basic rate after referring to the Plaintiff's data with the Ministry of Justice. Upon the Department's review of the case file, and a copy of the deed issued by the General Court in Buraydah with number (...) volume 11 on ../../... AH, and the deed issued by the Notary Public in Buraydah with number (...) Dated ../../... AH, it was established that the sold property does not belong to the Plaintiff but rather to (the heirs of ...) who is one of them. Furthermore, upon the Department's review of the payment notification number (...) dated ../../..., it was established that the tax was remitted to ZATCA on this property sold by the heirs. Therefore, the Department concludes that the Plaintiff's claim should be accepted and the Defendant's decision should be cancelled.
Second: fine for Error in Tax Return: Article (42.1) of the VAT Law stipulates: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due" The Plaintiff requests the cancellation of the fine resulting from the Defendant's adjustment to the Plaintiff's tax return related to the first quarter of 2020, and whereas the Department's decision in item (First) has led to not supporting the Defendant in its procedure, and since the misdeclaration fine resulted from that, what is related to it takes the same ruling, therefore, the Department concludes with the cancellation of the fine.
Third: Late payment fine: Article (27.1) of the VAT Law (Payment of Tax) stipulates that: "The regulations shall specify the periods, conditions, and controls for the payment of the net tax due by the taxable person." Additionally, Article (59.1) of the Implementing Regulations of the VAT Law states: "Payment of Tax due by a Taxable Person in respect of a Tax Period must be made at the latest by the last day of the month following the end of that Tax Period". Article (43) of the VAT Law stipulates: "Whoever does not pay the tax due within the period specified by the Regulations shall be fined an amount equaling (5%) of the value of unpaid tax, for each month or fraction of month for which the tax was not paid." The Plaintiff requests the cancellation of the fine resulting from the Defendant's adjustment to the Plaintiff's tax return related to the first quarter of 2020, and whereas the Department's decision in item (First) has led to not supporting the Defendant in its procedure, and since the misdeclaration fine resulted from that, what is related to it takes the same ruling, therefore, the Department concludes with the cancellation of the fine.
In light of the foregoing, and after deliberation, the Department unanimously decided to:

Decision:

First: Accept Plaintiff's case in form.
Second: Cancel the Defendant's decision regarding the final reassessment for the tax period related to the first quarter of 202
This decision was issued in the presence of both parties. the Department set Monday, 25/08/1443 AH, corresponding to March 28, 2022, as the date for receiving a copy of the decision. The parties to the case have the right to appeal it within thirty days from the day following the date set for its

receipt. In the event that no objection is submitted, it becomes final and enforceable after the expiry of this period.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh

Decision No. VTR-2022-349
Case No. V-58456-2021

Key words:
Value Added Tax – Final Reassessment – Local Taxable Sales at Basic Rate – Local Taxable Purchases at Basic Rate – Misdeclaration Fine - Late Payment Fine

Abstract

The Taxpayer instituted this case moving to cancel ZATCA's decision regarding the final reassessment for the tax period related to the first quarter of 2018, and the imposition of fines for misdeclaration and late payment resulting from the reassessment, concerning the item (Local Sales Subject to the basic rate), where it is evident that the Taxpayer has engaged in an economic activity subject to the provisions of the Value Added Tax Law and its implementing regulations, and whereas it became clear to the Department that the Taxpayer's responses undermine the validity of ZATCA's actions, and the item (misdeclaration fine and late payment), where the Defendant stated in its reply memorandum that the fines had already been cancelled. Therefore, the Department ruled to establish resolution of the dispute concerning the item (fine for late payment and misdeclaration), cancel the Defendant's decision related to the adjustment of the local sales subject to the basic rate for the tax period, and reject other requests.

Instruments:

- 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
- Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Article (44.1) of Common VAT Agreement of GCC states of November 2016
- Article (70) of the Law of Civil Procedure promulgated by Royal Decree No. (M/1) of 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 (1) and (8) of Article (49) of the Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Decision No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD

Facts:

Facts of the case are summarized that ....., ID No. (.....), in his capacity as the legal Attorney of the Plaintiff by virtue of POA No. (...), submitted a statement of claim that included their objection to the Defendant's decision regarding the final reassessment for the tax period related to the first quarter of 2018, and the imposition of fines for misdeclaration and late payment resulting from the reassessment, and requests the cancellation of the Defendant's decision and the imposed fines Having presented the statement of claim to Defendant (ZATCA), Defendant answered as follows: First: Decision is presumed to be valid and sound, and whoever claims otherwise shall provide

proof supporting his claims. Second: "In exercising its statutory right to verify the accuracy of declarations, as stipulated in Article (50) of the VAT Law, "Taking into account the provisions of Article (28) of the Law, ZATCA shall be responsible for managing, examining, assessing, and collecting the tax, and for this purpose, it may take any measures it deems appropriate. Pursuant to paragraph (1) of Article (26) of the Value Added Tax Law: "1. ZATCA may make a Tax assessment of a Taxable Person irrespective of a Tax Return filed by him". Additionally, as per Article (64) of the Implementing Regulations of the VAT Law: "1 - ZATCA may issue an assessment of a taxable person's VAT obligations for one or more tax periods, and ZATCA must notify them of such an assessment upon issuance. Based on the above, ZATCA has reassessed the tax periods in Tax question. ZATCA would like to begin by summarizing some essential facts regarding the case: ZATCA received information on (19/08/2020) regarding the Plaintiff's violation of the provisions of the Value Added Tax Law and its implementing regulations. The violation – according to the content of the information – is "the Taxpayer's disposal of a piece of land at a price lower than the actual selling price, and the difference was transferred to the Taxpayer's account." that otherwise provided in Article (56.2) of the Implementing Regulations of the VAT Law, which states: "In addition to other rights stipulated in this Article, ZATCA 2- may have direct and continuous access to any information directly related to the tax, which is retained by a third party." ZATCA found, according to (Ministry of Justice) data, the existence of real estate sales with zero values and other sales significantly lower than their actual values. ZATCA clarified the nature of these sales and requested justification for their execution at zero values and other values lower than their actual ones, in accordance with paragraph (6) of Article (66) of the Regulations: "6 - "When deemed necessary by ZATCA, ZATCA may, at any time, request additional records for the purposes of registration, examination and assessment procedures from the Taxable Person, provided that ZATCA has a justifiable reason for such request." Article (56.1) of Regulations, which stipulates that" All Persons must provide ZATCA with any information requested by ZATCA for the purposes of establishing whether that Person is complying fully with its Tax obligations. The Plaintiff provided justification via email for the zero sales, stating that they were "land disposals through donation to partners," then contradicted their statement – during their presence at ZATCA's branch in Riyadh – by saying that they were "parceling out, updating, releasing mortgages, and acquiring ownership of shares." Regarding the decrease in value, they stated that they were making settlements with the partners and distributing the lands among them. The Plaintiff also acknowledged – according to the attached investigation report – the collection of most of the sales amounts in cash. Therefore, ZATCA, in accordance with Article (56.2) mentioned above, reviewed the Plaintiff's bank accounts and found bank transactions that did not match the tax returns and what was stated to ZATCA. Based on the foregoing, ZATCA adjusted the item of sales subject to tax at the basic rate and included the value of undeclared bank transactions within the tax returns according to the period, considering them as taxable supplies in accordance with Article (14) of the Regulations. Regarding Taxable Purchases at Basic Rate: The Plaintiff requests approval of their purchases as deductible input tax, ZATCA notes that it did not reassess the item and did not exclude any purchases from the tax returns for the tax periods in question in the case. However, it states that the law and its implementing regulations guarantee taxable persons the right to deduct purchases in other tax periods when the conditions for tax deduction are met, in accordance with Article (49.8) of the Implementing Regulations of the VAT Law, which states: "The taxable person has the right to deduct input tax in a subsequent tax period for the period that includes the date of supply, provided that they have the right to make the deduction in accordance with the other provisions of these regulations. Input tax may not be deducted in any period that falls after five years from the calendar year in which the supply occurred." Based on the aforementioned, the Plaintiff is entitled, upon the completion of the conditions for deducting input tax, to deduct it in subsequent periods for the period that includes the date of supply. Regarding the fines for misdeclaration and late payment: ZATCA states that

the fines have been previously cancelled. Defendant representative concluded his Reply with requesting dismissal of the case. End of Answer.
The Plaintiff then submitted a replication in which he responded that After reviewing ZATCA's response in its reply memorandum (1) regarding the aforementioned cases, we respond to what was stated therein as follows: 1. Regarding ZATCA's statement that the presumption is that a decision is valid and sound, and that whoever claims otherwise must prove their claim, we clarify that what ZATCA mentioned at the beginning of its response does not apply to this case, as the reasons and justifications mentioned make the administrative decisions issued by ZATCA (assessments) incorrect and require their cancellation because these decisions violated and contradicted the very principle they are based on, and therefore they are far from being valid and sound. 2. Regarding ZATCA's response not meeting the statement of claim, one of the fundamentals of defenses in cases is that the defense must meet the claim in a correct, complete, and detailed manner. The answer and defenses must include what indicates their meeting with the claim. As the drafting of claims and defenses is a fundamental requirement, failure to adhere to it leads to the rejection of defenses and claims, as Article Forty-Five, Paragraph 1/a of the Rules of Procedure for Tax Committees issued by Royal Decree No. (26040) dated 21/4/1441 AH stipulates the following: "The appellate committee shall consider the subject matter of the case through pleadings, and the committee shall suffice with reviewing the decisions of the contested first-instance committee in the following cases: a - The decision issued without considering the case due to its lack of proper drafting." Furthermore, Article Sixty-Three of the Code of Civil Procedure issued by Royal Decree No. M/21 dated 20/5/1421 stipulates the following: a - The decision issued without considering the case due to its lack of proper drafting." Furthermore, Article Sixty-Three of the Code of Civil Procedure issued by Royal Decree No. M/21 dated 20/5/1421 stipulates the following: The judge shall ask the Plaintiff what is necessary to draft their claim..." What applies to claims from the Plaintiff's side applies to defenses from the Defendant's side, which indicates a presumption of weakness in ZATCA's position and the invalidity of the procedures and decisions it took, and consequently the resulting demands, which confirms our request in the statement of claim to cancel these decisions (assessments). 3. Assessments (Sales): Regarding what ZATCA mentioned about receiving a report on (19/08/2020 AD) that the Plaintiff had violated the provisions of the Value Added Tax Law and its implementing regulations, and that the violation – according to the content of the report – consisted of the taxable person disposing of a piece of land at a price lower than the actual selling price, with the difference transferred to the taxable person's account, and that there are real estate sales with zero values and other sales significantly lower than their actual values, and that there is a discrepancy in the Plaintiff's statements regarding the justification for this, and that ZATCA found bank transactions that do not match the tax returns, and that based on this, ZATCA adjusted the item of sales subject to tax at the basic rate and included the value of undeclared bank transactions within the tax returns according to the period. In response to that, the following is stated: a- ZATCA's response clarifies the shortcomings of its reply to what was mentioned in the statement of claim and the defenses, reasons, and clarifications presented. b- What ZATCA mentioned in its response is a unsubstantiated claim lacking proof and evidence, and no decision should be based on it. The full reality of the land disposals was clarified to ZATCA from the Ministry of Justice's website, and the statement (printout) extracted from the Notary Public's office, which should be the basis for calculating the tax, was submitted, and not what ZATCA mentioned in its memorandum, as well as based on the deposits in bank accounts. c- ZATCA placed the total sales amounts for the periods in question in the case at SAR 63,211,939,454, while the total actual sales based on the disposals and deeds derived from the Ministry of Justice's extract (printout) are SAR 79,125,766, with an excess difference of SAR 63,132,813,680. ZATCA did not clarify in its assessments what these excess sales in the assessments are, their source, and the basis of their calculation, in violation of paragraph (2) of Article 64 of the Regulations. d- Regarding what was mentioned about zero amounts, we clarify to the Department that all properties appearing with a zero value in the period

under objection are due to the following: the planning deeds include participations for shareholders, where the lands for the plan are issued in the name of (...) then the lands are disposed of to government facilities and shareholders. Regarding government facilities, these include (streets - electricity rooms –- mosque– - building for the imam and muezzin– - school), where the plots (land) are disposed of to the government entity without value, and this action is not considered an activity subject to VAT. Regarding the shareholders, values were set for them at the request of a ZATCA employee, and the sales were adjusted accordingly. Therefore, including them is considered subjecting them to tax twice, once within the sales return and a second time within the shareholders' deposits in bank accounts. It also includes deeds resulting from real estate transactions that are not subject to VAT, which are: subdivision, which is the process of converting raw land into a plan for the same owner and is not a sale; and consolidation, which is the process of merging lands under the same owner's name and is not a sale; and all of the above are service real estate transactions that result in deeds specific to the Taxpayer (...) and are not a sale. Therefore, these transactions are not considered an activity subject to VAT, thus clarifying the true picture of taxable sales to the Department. e- Regarding the mention of contradictions in the Plaintiff's response, we clarify that there are no contradictions, but rather what was mentioned is the reality based on the Ministry of Justice's printout and the bank accounts that ZATCA reviewed. The amounts in these accounts are not all solely from sales subject to Value Added Tax, but rather include personal amounts for (Mr. ...) and his family, and amounts resulting from personal banking transactions that have no relation to Value Added Tax, such as loans, which are deposits for loans obtained for the purpose of financing the purchase of raw land, and the loan agreement is attached. There are also bank transfers,– which are internal transfers– between accounts of the same owner for the purpose of enhancing the deposited account, and these are not transactions subject to VAT. Additionally, there are deposit amounts from shareholders upon the purchase of raw land, where after completing the plan and obtaining approval, the lands are divided in the name of (...), and the shareholders' entitlements are divided either by distributing lands to them according to their shares – which were referred to as gifts in the disposal deeds– – or their entitlements are distributed in cash after the sale of the lands. As values were determined for the gifts and were subject to tax, and the sold lands were also subject to tax, the shareholders' deposits cannot be considered subject to tax, and ZATCA's action leads to the repeated taxation of these amounts, which necessitates their exclusion from ZATCA's assessments. Furthermore, there are amounts for commercial brokerage (commission), where in some brokerage transactions between a seller and a buyer, the buyer deposits the purchase amount in the account, and then a check for the sale value is issued to the seller. Only the commission, which is subject to tax accounting, relates to the activity or VAT. There are also amounts for the repayment of advances, which are amounts provided to relatives and friends as benevolent loans, and when these advances are repaid, they are included in bank deposits and do not result from the practice of an economic activity, therefore they have no relation to VAT. Additionally, there are amounts resulting from reverse transactions, which are errors that occur in bank accounts where a deposit is made by mistake and then the transaction is corrected by reversing it by the bank. f- The Plaintiff does not dispute ZATCA's application of Article 14 of the Implementing Regulations of the VAT Law, as the dispute is not about the imposition of tax on supplies or not, but rather about the manner in which ZATCA issued its final assessments with non-actual sales, which makes ZATCA's reference to them of no value or meaning. 4 Regarding the 'Purchases' assessment, ZATCA mentioned in relation to the Plaintiff's request to approve their purchases as deductible input tax, and what it stated about not having reassessed the item and not having excluded any purchases from the tax returns for the tax periods in question in the case, and that the law and its implementing regulations guarantee taxable persons the right to deduct purchases in other tax periods when the conditions for tax deduction are met. We respond to this by stating that ZATCA's response does not address the Plaintiff's request, as the Plaintiff objects to ZATCA's non-approval of their purchases as deductible input tax and requests their deduction. These inputs (purchases) are costs for sales and Value Added

Tax was paid on them, therefore they are eligible for deduction in the assessment as an inherent right for the taxable person according to Article One (Definitions) of the Common VAT Agreement of GCC states, which was issued with the Kingdom's approval by Royal Decree No. M/51 dated 03/05/1438 AH, which defined 'Input Tax: 'Taxable Supplies: Supplies on which tax is imposed in accordance with the provisions of the Agreement, whether at the basic rate or at zero percent. The related inputs are deductible in accordance with the provisions of the Agreement.' The same article also states: 'Taxable Supplies: Supplies on which tax is imposed in accordance with the provisions of the Agreement, whether at the basic rate or at zero percent. The related inputs are deductible in accordance with the provisions of the Agreement.' The same article also states: 'Deductible Tax: Input tax that may be deducted from the tax due on supplies for each tax period in accordance with the provisions of the Agreement and the local law.' Article Twenty-Two of the Value Added Tax Law issued by Royal Decree No. M/113 dated 2/11/1438 AH referred to the Implementing Regulations regarding a number of specific provisions related to the deduction of purchase tax (input tax). Based on this, Article Forty-Nine of the Implementing Regulations of the Value Added Tax Law issued pursuant to the decision of the Board of Directors of the General Authority of Zakat and Tax No. (3839) dated 14/12/1438 AH and subsequent amendments stipulated: 'Without prejudice to any special provision in this article, the taxable person shall have the right to deduct the input tax imposed on goods and services supplied to them in the course of carrying out their economic activity.....' The memorandum concludes with a request to accept the case in form and substance for the reasons and justifications mentioned in the statement of claim.

On Monday, 09/12/2022, a session was held via video conference in accordance with procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling litigants, Mr. ....., (Saudi), ID No. (...), under POA No. (...), And (...) (Saudi, ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated .../.../... AH issued by the Deputy Governor for Legal Affairs. Having asked the Plaintiff regarding his case, they responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming contents of the memorandum of reply. Based on what the Plaintiff raised in their memorandum filed in the case file, the Department requested ZATCA's Representative to respond to the matter of ZATCA's assessment notice violation of paragraph 2 of Article 64, as well as to provide an explanation for the amount of the adjustment to sales for each return and link it to its legal basis. Therefore, the Department decided to postpone to 30/01/2022, at 04:00 PM, provided that the Defendant submits its response to the matter before January 17, 2021, and that the Plaintiff reviews this and submits their response before January 24, 2021, including the amount of sales that they consider sound in light of the cash amounts for the tax period in question in the case. The Department emphasized that both parties must submit the required documents within the specified deadlines. If a party fails to comply without an acceptable excuse, this will be considered a refusal to proceed, in accordance with Article 112 of the Law of Civil Procedures.

On Sunday, 31/01/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Decree (26040) dated 21/14/1441 AH. Having called parties to case, ... Plaintiff's Attorney appeared, (Saudi National, under National ID No. (...) under POA No. (...), And (...) (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated ../../... AH and issued by the Deputy Governor for Legal Affairs. Upon the Department's review of the case file and the previous session minutes, which included the requirement for the Defendant to submit a reply memorandum before January 17, it was found that no response had been received from the Defendant. the Department reviewed the decision in question in the case and found that the

Defendant had not made any adjustment to the purchases item. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

Having taken cognizance of documents included in Case file, and perused the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by Board of Directors of the General Authority of Zakat and Income Resolution No. (3839) dated 14/12/1438 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, the Department considered the Case:

In form, as the Plaintiff aims with their case to object to the final reassessment for the tax period related to the first quarter of 2018, and the imposition of fines for misdeclaration and late payment resulting from the reassessment, based on the Value Added Tax Law and its implementing regulations, and as this dispute is a tax dispute, it is considered among the disputes falling within the jurisdiction of the Committee for the Settlement of Income Tax Violations and Disputes pursuant to Royal Decree No. (26040) dated 21/04/1441 AH, and as the case was filed by a party with standing, and within the legally prescribed period, it is therefore necessary for the Department to accept the case in terms of form.

In Merits, Upon reviewing the case documents and examining the responses of both parties, after granting them sufficient time to present their arguments, the Department established that the Defendant (ZATCA) issued a decision regarding the final reassessment for the tax period related to the first quarter of 2018, and the imposition of fines for misdeclaration and late payment resulting from the reassessment. The Department found the following:

First: Section on Domestic Sales Subject to the Basic Tax Rate: It is evident that the Plaintiff has engaged in an economic activity subject to the provisions of the Value Added Tax Law and its implementing regulations, and that they have registered and submitted returns as required. ZATCA has conducted a reassessment based on a report it received and exercised its powers – in accordance with its administrative authority – however, this action was not accepted by the Taxpayer, who objected to ZATCA and then filed a case with the competent judicial body, requesting it to exercise its discretionary judicial authority regarding the appropriateness of ZATCA's discretionary practice. Upon the Department's review of what was included in the statement of claim and the reply memorandum submitted by the Plaintiff, and the elements contained therein that affect the consideration of the case, as well as upon its review of the reply memorandum submitted by ZATCA and the response it contained, it became clear to the Department that there are a number of influential elements in classifying the Taxpayer's legal status and the actions they undertook, which ZATCA did not address in its memorandum. These include what the Plaintiff's Attorney mentioned, that including the tax in the manner deemed appropriate by ZATCA involves imposing the tax twice on the same subject matter without it being in a recoverable chain due to the separation of the two parties (during the declaration of sales and within shareholders' deposits), and their claim that some sales transactions were subject to real estate transaction tax and subjecting them to Value Added Tax constitutes double taxation, and their assertion that ZATCA subjected all real estate transactions to assessment and connection with estimated amounts, even though those transactions were not sales or purchases or considered as such, such as the conversion of raw land into plots, its subdivision, consolidation, separation, or modification, and their claim that ZATCA imposed tax on all amounts in their account, including lending operations, transfers between their personal bank accounts, and reverse

transactions. As the Defendant did not submit a reply memorandum within the specified timeframe despite being given sufficient time to do so, and after being warned that their failure to submit what was requested from the parties would be considered a refusal according to the provisions of the Code of Civil Procedure, the Department found that the Plaintiff's responses undermine the validity of ZATCA's actions, and the Department has not established otherwise, which leads the Department to conclude that the contested administrative decision is not sound regarding the item of local sales subject to the basic rate for the tax period in question in the case.
Second: Section on Domestic Purchases Subject to the Basic Tax Rate: It is evident that the dispute lies in the Plaintiff's request to deduct their purchases for the period in question in the case, and the Defendant indicates that it has not made any adjustments regarding the Plaintiff's purchases. Upon considering the facts of the case, the Department found that the Defendant did not make any adjustments to the purchases item for the period in question in the case. As the right to deduct purchases for the taxable person is a right guaranteed to the Plaintiff alone according to paragraph (1) of Article (44) of the Agreement and paragraph (1) of Article (49) of the Regulations, and as the Plaintiff did not disclose their purchases for the assessment period, the Regulations, according to paragraph (8) of Article (49) of the Regulations, guaranteed the Plaintiff the right to rectify this by making the deduction in any subsequent periods to the period in dispute and for a period of five years, provided that the conditions for deduction stipulated in the provisions of the Agreement, the Law, and the Regulations are met. Furthermore, the Plaintiff did not take any action regarding this item during the assessment period. As paragraph (8) of Article (49) of the Implementing Regulations of the VAT Law stipulates that: "A deduction of Input Tax may be made by a Taxable Person in a Tax Period subsequent to that Tax Period including the date of Supply, provided that the Taxable Person remains eligible to make such deduction under the other provisions of these Regulations. Input Tax may not be deducted in any period which falls more than five calendar years after the calendar year in which the Supply takes place". Therefore, the Department concludes by disregarding this request.
Third: Item: misdeclaration fine and Late Payment fine: The Defendant stated in its reply memorandum as follows: "Regarding the fines for misdeclaration and late payment: ZATCA states that the fines have been previously cancelled.' And based on Article (70) of the Code of Civil Procedure issued by Royal Decree No. (M/1) dated 22/01/1435 AH, which stipulates: "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." Accordingly, the Department concludes that the dispute particular issue has been resolved.
In light of the foregoing, and after deliberation, the Department unanimously decided to:

Decision:

First: Establish resolution of the dispute regarding late payment and misdeclaration for the tax period in question in the case.
Second: Cancel the Defendant's decision related to the adjustment of the local sales subject to the basic rate for the tax period in question in the case.
Third: Reject other requests.
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.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh

Decision No. VTR-2022-360
Case No. V-60753-2021

Key words:
Value Added Tax (VAT) – Final Reassessment – Local sales subject to tax at basic rate – Misdeclaration Fine – Late Payment Fine

Abstract

Taxpayer instituted this case moving to cancel ZATCA's decision regarding the final reassessment for the tax period related to the first quarter of 2018, and the fines resulting from the reassessment, specifically concerning the item of "local sales subject to the basic rate tax" (where it appears that the dispute lies in the Defendant's adjustment of the amount of local sales subject to the basic rate tax). It became clear to the circuit that the Taxpayer did not provide anything that would prove the validity of their claim. Regarding the fines for misdeclaration and late payment, and since the circuit, in the first item above, saw the approval of the Defendant's action, and since the two fines resulted from that, what is related to it takes its ruling. Therefore, the Department dismisses the claim.

Instruments:

- 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
- Articles (26.1), (27.1), (42.1), and (43) of the Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Common VAT Agreement of GCC states of November 2016
- Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. (1535) of 11/06/1425 AH
- Article (53), Article (59.1), Article (64.1), Article (64.2), and Article (65.2) of the Implementing Regulations of the VAT Law, issued pursuant to Decision No. (3839), dated 14 Dhul-Hijjah 1438 AH, corresponding to November 14, 2016, of the Board of Directors of the former General Authority of Zakat and Tax (GAZT)

Facts:

Facts of the Case are summed up as follows: (…), ID No. (...) in his capacity as the owner of ....., Information Technology Establishment, registered under C.R. No. ...., filed a statement of claim, challenging the Defendant's decision regarding the final reassessment for the tax period related to 1Q 2018, and the fines resulting from the reassessment, and she requests the cancellation of the decision and the imposed fines.
Having presented the statement of claim to Defendant (ZATCA), Defendant answered as follows: With reference to the aforementioned case, we inform the esteemed committee that the Plaintiff

failed to raise an objection with ZATCA in accordance with Tax Dispute and Violation Committee Procedures. Paragraph (1) of Article (3) thereof states: "GAZT's decisions shall be final and unappealable before any other agency in the following cases: (1.) If a taxpayer does not object to the decision within 60) days from the date of notification thereof" Since ZATCA's decision to reassess was issued on .../.../... and the Plaintiff did not file an objection within the statutory period mentioned above, the contested decision thus becomes final and non-appealable, in accordance with the provisions of Paragraph (1) of Article (3) of Tax Dispute and Violation Committee Procedures. The Defendant's Attorney concluded their memorandum by requesting a ruling of inadmissibility of the case in form. End of Answer.

On Tuesday, 21/12/2022, the session was held via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. When calling litigants, Mr.(...) attended (...) (Saudi) appeared in his capacity as the Plaintiff's Attorney by virtue of POA No. (...), ID No. (...), Additionally, (...) attended (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated 08/ 03/ 1443 AH issued by Vice Governor for Legal Affairs. Having asked Plaintiff's Attorney about his claim, he maintained his statements included in the statement of claim submitted to the General Secretariat of Zakat, Tax and Customs Committees. Having asked Defendant's representative about his answer, he maintained his statements included in his answer. Additionally, he requested that the claim be dismissed in form, due to the Plaintiff's failure to submit an objection to ZATCA before filing the claim. When this was presented to the Plaintiff, he responded that he had attempted to submit an objection to ZATCA, but the objection process was conditional on providing a financial guarantee, which he could not submit due to financial constraints. When Defendant's representative was asked whether a financial guarantee is required in all cases, he replied that it is mandatory for all reassessment cases. When asked for his substantive response regarding the case, he requested additional time to submit it. Accordingly, the Department decided to adjourn the hearing to January 9, 2022, at 4:00 PM. The Plaintiff must submit evidence supporting his claim before December 24, 2021. The Defendant must review and submit a response before December 30, 2021. The Department emphasized that both parties must submit the required documents within the specified deadlines. If a party fails to comply without an acceptable excuse, this will be considered a refusal to proceed, in accordance with Article 112 of the Law of Civil Procedures.

The Plaintiff submitted a memorandum accompanied by a trial balance, which included the following: "We would like to inform Your Excellency that, in appreciation of what ZATCA expressed in its final assessment decision for the first quarter of 2018, issued on March 31, 2021, we object to that assessment for the reasons we will explain before Your Esteemed Committee. The declaration for the first quarter of 2018 was submitted on time by the Company's accountant for a value of SAR 11,123,517, which was an error due to their lack of experience with value-added tax. The value-added tax invoice was paid on its due date immediately upon issuance. After repeated invoices with inflated values and realized losses, we assigned the file to a financial manager to investigate the situation at the institution. Upon reviewing the file in accordance with the customs statement, sales report, and internal trial balances (attached), the error in the data submitted in the tax declaration for this period became apparent. During the initiative period, the financial manager adjusted the declaration in accordance with the available data and accounts, which are corroborated by the customs statement for this quarter, to a value of SAR 5,339,864. By comparing the value of imports with the sales that were adjusted by the financial manager, you will find the adjustment and the volume of sales that were adjusted to be reasonable, as the profit margin in this activity ranges from 15% to a maximum of 20%, depending on the market situation. Subsequently, ZATCA reverted the situation to what it was with the amount submitted in the erroneous declaration by the accountant, without evidence or documents explaining the reason for this arbitrary procedure, despite the fact that the adjustment was official and during the initiative

period. By referring to the value of imports in the customs statement, Your Excellencies will see ZATCA's error in the final assessment. Based on the foregoing, the attached documents, and the official government documents (customs statement) that clarify the volume of imports and confirm the validity of what we have explained, we request Your Excellencies to re-examine the file and the attached documents and revert ZATCA's assessment to the declaration submitted by the financial manager after the adjustment."

The Defendant, ZATCA, submitted a memorandum stating: Regarding the adjustment of the Local sales subject to tax at the basic rate ZATCA confirms its communication with the Plaintiff during the examination period, but there was no response to the calls and emails sent, which prevented ZATCA from examining the declaration. This was due to the lack of any supporting documents for what was stated in the declaration. Therefore, it was decided to revert the submitted tax declaration for the period to its original state as submitted by the Plaintiff, given their failure to provide any document clarifying the sales for the period, in addition to submitting a letter confirming the lack of a bank account for the Plaintiff until 2020. The Defendant's Attorney concluded their memorandum by requesting a ruling of inadmissibility of the case in form. End of Answer.

On Sunday, 09/01/2022, the session was held via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. When calling litigants, Mr..... attended (...) (Saudi) appeared in his capacity as the Plaintiff's Attorney by virtue of POA No. (...), ID No. (...), Additionally, (...) attended (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated ../../...AH, issued by the Deputy Governor for Legal Affairs. When the Plaintiff's attorney was asked about what they were granted time for, they stated that they had attached the required documents, and that the evidentiary invoices are available should the circuit wish to upload them to the case file. After the Defendant's Representative requested a comment, they stated that ZATCA was unable to review the documents due to time constraints and requested an extension. Consequently, the circuit decided to adjourn the hearing to January 30, 2022, at 4 PM. The Plaintiff was instructed to submit the supporting documents and invoices, including a sample of the high-value invoices, by January 12. The Defendant was instructed to review and provide their response by January 27, as if the documents and invoices had been submitted to ZATCA during the examination phase. The Department emphasized that both parties must submit the required documents within the specified deadlines. If a party fails to comply without an acceptable excuse, this will be considered a refusal to proceed, in accordance with Article 112 of the Law of Civil Procedures.

The Plaintiff submitted a two-page memorandum, the content of which did not differ from what was previously mentioned, and also a number of attachments that the Department reviewed.

The Defendant, ZATCA, submitted a memorandum stating: After reviewing what the Plaintiff submitted in the case files – as directed by the esteemed Department– ZATCA summarizes its response as follows 3. ZATCA reaffirms Plaintiff failed to raise an objection with ZATCA in accordance with Tax Dispute and Violation Committee Procedures. Paragraph (1) of Article (3) thereof states: "GAZT's decisions shall be final and unappealable before any other agency in the following cases: 1. If a Taxpayer does not object to the decision within 60 days from the date of notification thereof." Given that ZATCA's reassessment decision for the first quarter of 2018 and ZATCA's decision for July 2019 were both issued on March 31, 2021, and the Plaintiff did not object to ZATCA's decisions within the statutory period mentioned above, the decisions become final due to the lapse of time, in accordance with the provisions of paragraph (1) of Article (3) of the committee's rules. Regarding the Plaintiff's objection to the reassessment of the first quarter of 2018, ZATCA confirms that after the plaintiff adjusted what they had declared in the item of local sales subject to the basic rate tax, ZATCA questioned and inquired about the reason for the adjustment and the reduction in the item's value. The Plaintiff did not provide any technical or

regulatory justification for this adjustment. Upon reviewing what the plaintiff submitted to prove those sales after being granted time by the esteemed circuit, it was found that they submitted (50) invoices in addition to a report on those invoices. The Plaintiff also submitted a trial balance for the period in question. ZATCA confirms that these mentioned documents were not submitted to ZATCA when requested from the plaintiff, which prevents their consideration, especially after the decision to reassess the tax declaration was issued and became final due to the lapse of the statutory period. Furthermore, these documents were not submitted when the Plaintiff filed this case before the esteemed adjudication committee. This clearly indicates the plaintiff's failure to prepare and maintain the necessary documents to confirm the validity of their tax declarations. ZATCA also confirms that its right to request documents when examining tax declarations is one of the fundamental obligations that Taxpayers must adhere to and submit as stipulated in the executive regulations of the law in paragraph one of Article (56), which states: "All persons must provide ZATCA with any information requested by ZATCA for the purpose of verifying their tax obligations." Moreover, the Plaintiff's submission of sales invoices in a format that violates the regulations' requirements confirms the Plaintiff's non-compliance with the provisions of the regulations and the law. For all the foregoing reasons, ZATCA requests the esteemed Department not to accept what the Plaintiff submitted regarding the item of local sales subject to the basic rate tax for the reasons explained. Regarding the Plaintiff's objection to the reassessment of July 2019, ZATCA points out that the adjustment was in the item of imports subject to value-added tax, which is paid at customs. The Plaintiff mistakenly declared those imports in the item of local purchases subject to the basic rate tax. ZATCA's decision was to reclassify the declared amount into the correct item and reduce what was stated in it based on information received from (customs). The Plaintiff explicitly acknowledged in the letter followed by the customs statement submitted in the case file that the total import volume for that period was SAR (859,060), which is the same amount that ZATCA adopted in the disputed item. Therefore, it is evident that the Plaintiff was unaware of what was stated in their declaration and objected to the declaration without a legitimate basis. The Defendant's Attorney concluded their memorandum by requesting a ruling of inadmissibility of the case in form. End of Answer.

On Sunday, 30/01/2022, the session was held via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. When calling litigants, Mr..... attended (...) (Saudi) appeared in his capacity as the Plaintiff's Attorney by virtue of POA No. (...), ID No. (...), Additionally, (...) attended (Saudi, ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated ../../...AH, issued by the Deputy Governor for Legal Affairs. When ZATCA's Representative was asked to comment on the invoices submitted by the Plaintiff, they replied that a number of them did not include the customer's tax identification number, which is a regulatory requirement. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

Having taken cognizance of documents included in Case file, and perused the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by Board of Directors of the General Authority of Zakat and Income Resolution No. (3839) dated 14/12/1438 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, the Department considered the Case:

In form: Since Plaintiff filed this Case for the purpose of canceling Defendant's decision with regard to the final reassessment of the tax period related to 1Q 2019, and the fines resulting from the reassessment, based on the Value Added Tax Law and its Implementing Regulations, and since this dispute is one of The Tax Disputes, it is considered one of the disputes within the jurisdiction of the Tax Violations and Disputes Committee under Royal Decree No. (M/26040) dated 02/11/1438 AH, and since the Case was submitted by a person with capacity, and within the period prescribed by law, it is then accepted in form.

Regarding the Defendant's argument of a procedural defect, namely the Plaintiff's failure to initially file an objection with ZATCA before filing their lawsuit, the response is that the plaintiff attempted to file an objection with the Defendant. However, the Defendant conditioned the acceptance of the objection on the provision of a financial guarantee. Upon reviewing paragraph (2) of Article (65) of the Implementing Regulations of the VAT Law, which states: "In cases where a formal review or appeal is lodged against an appealable decision, and the Authority has evidence or reason to doubt that the Taxable Person may not pay the disputed Tax, the Authority may require a cash security or bank guarantee from the Taxable Person up to a maximum value of the unpaid amount of Tax and associated penalties arising in connection with the decision. The guarantee request must be issued in writing." It became clear to the Department that the request for a financial guarantee, in light of the provisions of the aforementioned paragraph, is an exceptional case and is subject to several controls, including the existence of a state of suspicion, an upper limit for the guarantee amount, and the requirement that the guarantee request be in writing. This confirms that the legislator intends for the procedure of requesting a guarantee in objection cases to be limited to the narrowest possible circumstances, so as not to deprive the Taxpayer of their right to resort to the judiciary. Considering the Defendant's procedure in this regard, and as it became clear to the Department that the Defendant expanded the requirement of a financial guarantee, making it a requirement for all cases of objection to reassessment, which is contrary to the text of paragraph (2) of Article (65) of the Implementing Regulations of the VAT Law, the Department concludes that the Defendant's argument in this regard should be disregarded.

In Merits, upon the Department's review of the case documents and the responses of both parties after granting them sufficient time to present and submit their respective positions, it became evident to the Department that the Plaintiff objects to the Defendant's decision regarding the final reassessment of the tax period related to the first quarter of 2018, and to the imposition of fines for declaration errors and late payment resulting from the reassessment. The following was established:

First: Section on Domestic Sales Subject to the Basic Tax Rate: It is apparent that the dispute lies in the Defendant's amendment of the amount of domestic sales subject to the basic tax rate, which occurred after the Plaintiff had amended their tax declaration by reducing the value of the sales item. As stipulated in paragraph (1) of Article (26) of the VAT Law, "ZATCA may conduct a tax assessment of the taxable person regardless of the tax declaration submitted by them." Similarly, Article (14) of the Executive Regulations of the VAT Law states, "Without prejudice to the provisions of Article (2) of the law, and for the purposes of applying the Agreement and the law in the Kingdom, tax shall be imposed on all taxable supplies of goods and services provided by any taxable person in the Kingdom within the context of economic activity, in cases where the reverse charge mechanism applies, and on the importation of goods into the Kingdom. Whereas paragraph (1) of Article (64) of the Implementing Regulations of the VAT Law stipulates that "ZATCA may issue an assessment of the Value Added Tax obligations of a taxable person for one or more tax periods, and ZATCA must notify them of such assessment upon its issuance." Similarly, paragraph (2) of Article (64) of the Implementing Regulations of the VAT stipulates that "The assessment must, at a minimum, specify the net tax due, the payment due date, and the basis for calculating the assessment. Furthermore, the assessment must include notifying the taxable person of their right to appeal the assessment." Upon the Department's review of the tax invoices submitted by the Plaintiff, which they rely on to prove the accuracy of the sales amount they claim,

it was found that a number of these invoices lack the regulatory requirements stipulated in Article (53) of the Implementing Regulations of the VAT Law, including the absence of the Plaintiff's tax identification number. Therefore, they cannot be relied upon. As the Plaintiff has failed to provide any evidence to substantiate their claim, the Department concludes that the Defendant's decision in this regard is valid.

Second: fine for Error in Tax Return: "Regarding the fine for declaration errors; whereas paragraph (1) of Article (42) of the VAT Law stipulates: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due" Whereas the Plaintiff requests the cancellation of the fine resulting from the Defendant's amendment of the Plaintiff's tax declaration related to the fourth quarter of 2018 by excluding the item of domestic purchases subject to the basic tax rate. And whereas the Department has found that the first item above led to the confirmation of the Defendant's action, and since the fine for declaration errors resulted from that, what is related to it takes its ruling, according to the provisions of paragraph (1) of Article (42) of the VAT Tax Law.

Third: Late payment fine: Regarding the late payment fine, whereas paragraph (1) of Article (27) of the VAT Law (Tax Payment) stipulates: "The regulations shall specify the periods, conditions, and controls for the payment of the net tax due by the taxable person." Additionally, Article (59.1) of the Implementing Regulations of the VAT Law states: “Payment of Tax due by a Taxable Person in respect of a Tax Period must be made at the latest by the last day of the month following the end of that Tax Period”. Article (43) of the VAT Law stipulates: “Whoever does not pay the tax due within the period specified by the Regulations shall be fined an amount equaling (5%) of the value of unpaid tax, for each month or fraction of month for which the tax was not paid." Whereas the Plaintiff requests the cancellation of the fine resulting from the Defendant's amendment of the Plaintiff's tax declaration related to the fourth quarter of 2018 by excluding the item of domestic purchases subject to the basic tax rate. And whereas the Department, in the first item above, found the Defendant's action to be valid, and since the late payment fine resulted from that, what is related to it takes its ruling, according to the provisions of Article (43) of the VAT Law, thereby the Department finds the Defendant's decision regarding the imposed fine to be valid.

In light of the foregoing, and after deliberation, the Department unanimously decided to:

Decision:

First: Accept the case in form.

Second: Dismiss the 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.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh

Decision No. VTR-2022-361
Case No. V-63609-2021

Key words:
Value Added Tax (VAT) – Final Reassessment – Local Purchases Subject to Basic Tax Rate – Late Payment Fine – Misdeclaration Fine

Abstract

Taxpayer instituted this case moving to cancel ZATCA's decision regarding the final reassessment for the tax period related to July 2019, and the fines resulting from the reassessment, concerning the item (local purchases subject to the basic tax rate), where it is evident that the dispute lies in the Taxpayer's claim to deduct their purchases for the tax period. And whereas it became clear to the Department that the Taxpayer did not provide the documents proving their entitlement to the deduction, and regarding the fines for declaration errors and late payment, whereas the Department, in the first item above, found the Defendant's action to be valid, and since the fines resulted from that, what is related to it takes its ruling. Therefore, the Department dismisses the claim.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Common VAT Agreement of GCC States, November 2016.
- Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH
- Paragraph (1) of Article (27) and Paragraph (1) of Article (42) of the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH.
- Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. (1535) of 11/06/1425 AH
- Article (49.8), Article (59.1), and Article (65.2) of the Implementing Regulations of the VAT Law, issued pursuant to Decision No. (3839), dated 14 Dhul-Hijjah 1438 AH, corresponding to November 14, 2016, of the Board of Directors of the former General Authority of Zakat and Tax (GAZT)

Facts:

Facts of the case are summarized that ....., ID No. (.....), In her capacity Owner of .... Company, under C.R. No. (...) filed a statement of claim, challenging the Defendant's decision regarding the final reassessment for the tax period related to the monthly July fines resulting from the reassessment, and she requests the cancellation of the decision and the imposed fines.
Having presented the statement of claim to Defendant (ZATCA), Defendant answered as follows: With reference to the aforementioned case, we inform the esteemed committee that the Plaintiff failed to raise an objection with ZATCA in accordance with Tax Dispute and Violation Committee Procedures. Paragraph (1) of Article (3) thereof states: "GAZT's decisions shall be final and

unappealable before any other agency in the following cases: (1.) If a taxpayer does not object to the decision within 60) days from the date of notification thereof" Since ZATCA's decision to reassess was issued on 11/07/2021 and Plaintiff did not file an objection within the statutory period mentioned above, the contested decision thus becomes final and non-appealable, in accordance with the provisions of Paragraph (1) of Article (3) of Tax Dispute and Violation Committee Procedures. The Defendant's Attorney concluded their memorandum by requesting a ruling of inadmissibility of the case in form. End of Answer.

On Tuesday, 21/12/2022, the session was held via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. When calling litigants, Mr.(...) attended (...) (Saudi) appeared in his capacity as the Plaintiff's Attorney by virtue of POA No. (...), ID No. (...), Additionally, (...) attended (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), Dated..../.../... AH, issued by Vice Governor for Legal Affairs. Having asked Plaintiff's Attorney about his claim, he maintained his statements included in the statement of claim submitted to the General Secretariat of Zakat, Tax and Customs Committees. Having asked Defendant's representative about his answer, he maintained his statements included in his answer. Additionally, he requested that the claim be dismissed in form, due to the Plaintiff's failure to submit an objection to ZATCA before filing the claim. When this was presented to the Plaintiff, he responded that he had attempted to submit an objection to ZATCA, but the objection process was conditional on providing a financial guarantee, which he could not submit due to financial constraints. When Defendant's representative was asked whether a financial guarantee is required in all cases, he replied that it is mandatory for all reassessment cases. When asked for his substantive response regarding the case, he requested additional time to submit it. Accordingly, the Department decided to adjourn the hearing to January 9, 2022, at 4:00 PM. The Plaintiff must submit evidence supporting his claim before December 24, 2021. The Defendant must review and submit a response before December 30, 2021. The Department emphasized that both parties must submit the required documents within the specified deadlines. If a party fails to comply without an acceptable excuse, this will be considered a refusal to proceed, in accordance with Article 112 of the Law of Civil Procedures.

The Plaintiff also submitted a Reply stating the following: "We would like to inform Your Honor that, while appreciating what the General Authority of Zakat and Income expressed in its decision for the final assessment for the month of July 2019, issued on March 31, 2021, we object to that assessment as we will explain before Your Esteemed Committee. The declaration for July 2019 was submitted on time by the institution's accountant with a value of SAR 2,589,410. Previous purchases, for which the value-added tax was paid to customs, were utilized but not deducted from previous declarations. The deduction of these purchases was rejected by ZATCA, thus the institution did not benefit from these purchases. Based on the foregoing, the attached documents, and the official government documents (customs statement) that clarify the volume of imports and confirm the accuracy of what we have explained, we request Your Honor to re-examine the file and the attached documents and to revert ZATCA's assessment to the declaration submitted by the financial manager after the amendment during the initiative period.

The Defendant, ZATCA, submitted a memorandum stating: Regarding the amendment of the item of domestic purchases subject to the basic tax rate for the period of July 2019: The Plaintiff submitted their declaration, which included domestic purchases subject to the basic rate. However, they did not cooperate with ZATCA to provide the supporting documents for what was stated in this item. Given that there was data received from (Customs) confirming the existence of imports for that period, it was decided to exclude the purchases declared in the aforementioned item and amend the imports item to align with what was stated in the customs statement. The Defendant's Attorney concluded their memorandum by requesting a ruling of inadmissibility of the case in form. End of Answer.

On Sunday, 09/01/2022, the session was held via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. When calling litigants, Mr..... attended (...) (Saudi) appeared in his capacity as the Plaintiff's Attorney by virtue of POA No. (...), ID No. (...), Additionally, (...) attended (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated ../../...AH, issued by the Deputy Governor for Legal Affairs. When the Plaintiff's attorney was asked about what they were granted time for, they stated that they had attached the required documents, and that the evidentiary invoices are available should the circuit wish to upload them to the case file. After the Defendant's Representative requested a comment, they stated that ZATCA was unable to review the documents due to time constraints and requested an extension. Consequently, the circuit decided to adjourn the hearing to January 30, 2022, at 4 PM. The Plaintiff was instructed to submit the supporting documents and invoices, including a sample of the high-value invoices, by January 12. The Defendant was instructed to review and provide their response by January 27, as if the documents and invoices had been submitted to ZATCA during the examination phase. The Department emphasized that both parties must submit the required documents within the specified deadlines. If a party fails to comply without an acceptable excuse, this will be considered a refusal to proceed, in accordance with Article 112 of the Law of Civil Procedures.

The Plaintiff also submitted a one-page memorandum, the content of which did not deviate from what was previously mentioned, as well as a number of attachments, which the Department reviewed.

The Defendant, ZATCA, submitted a memorandum stating: After reviewing what the Plaintiff submitted in the case files – as directed by the esteemed Department– ZATCA summarizes its response as follows 3. ZATCA reaffirms Plaintiff failed to raise an objection with ZATCA in accordance with Tax Dispute and Violation Committee Procedures. Paragraph (1) of Article (3) thereof states: "GAZT's decisions shall be final and unappealable before any other agency in the following cases: 1. If a Taxpayer does not object to the decision within 60 days from the date of notification thereof." Regarding the Plaintiff's objection to the reassessment of July 2019, ZATCA points out that the adjustment was in the item of imports subject to value-added tax, which is paid at customs. The Plaintiff mistakenly declared those imports in the item of local purchases subject to the basic rate tax. ZATCA's decision was to reclassify the declared amount into the correct item and reduce what was stated in it based on information received from (customs). The Plaintiff explicitly acknowledged in the letter followed by the customs statement submitted in the case file that the total import volume for that period was SAR (859,060), which is the same amount that ZATCA adopted in the disputed item. Therefore, it is evident that the Plaintiff was unaware of what was stated in their declaration and objected to the declaration without a legitimate basis. The Defendant's Attorney concluded their memorandum by requesting a ruling of inadmissibility of the case in form. End of Answer.

On Sunday, 30/01/2022, the session was held via video conference in accordance with the procedures for remote video litigation based on Article (15.2) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. When calling litigants, Mr..... attended (...) (Saudi) appeared in his capacity as the Plaintiff's Attorney by virtue of POA No. (...), ID No. (...), Additionally, (...) attended (Saudi, ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated ../../.... AH, issued by the Deputy Governor for Legal Affairs. Upon reviewing the Plaintiff's response memorandum, the Department found that the import amount declared by them for the tax period in question matches what was stated in the final notice issued by ZATCA. When the Plaintiff's Attorney was asked to comment on this, he stated that there is an import amount in another tax period that his client wishes to add to the disputed tax period. Having asked the parties to the case if they had any other

statements, they decided to suffice with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

Having taken cognizance of documents included in Case file, and perused the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by Board of Directors of the General Authority of Zakat and Income Resolution No. (3839) dated 14/12/1438 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, the Department considered the Case:

In form: he Plaintiff aims in their lawsuit to annul the Defendant's decision regarding the final reassessment for the tax period related to July 2019, and the fines resulting from the reassessment, based on the Value Added Tax Law and its Implemeting Regulations, and since this dispute is a tax dispute, it is considered one of the disputes falling within the jurisdiction of the Committee for Adjudicating Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH. And since the lawsuit was filed by a party with standing, and within the legally prescribed period, the Department must accept the case in form.

Regarding the Defendant's argument of a procedural defect, namely the Plaintiff's failure to initially file an objection with ZATCA before filing their lawsuit, the response is that the plaintiff attempted to file an objection with the Defendant. However, the Defendant conditioned the acceptance of the objection on the provision of a financial guarantee. Upon reviewing paragraph (2) of Article (65) of the Implementing Regulations of the VAT Law, which states: "In cases where a formal review or appeal is lodged against an appealable decision, and the Authority has evidence or reason to doubt that the Taxable Person may not pay the disputed Tax, the Authority may require a cash security or bank guarantee from the Taxable Person up to a maximum value of the unpaid amount of Tax and associated penalties arising in connection with the decision. The guarantee request must be issued in writing." It became clear to the Department that the request for a financial guarantee, in light of the provisions of the aforementioned paragraph, is an exceptional case and is subject to several controls, including the existence of a state of suspicion, an upper limit for the guarantee amount, and the requirement that the guarantee request be in writing. This confirms that the legislator intends for the procedure of requesting a guarantee in objection cases to be limited to the narrowest possible circumstances, so as not to deprive the Taxpayer of their right to resort to the judiciary. Considering the Defendant's procedure in this regard, and as it became clear to the Department that the Defendant expanded the requirement of a financial guarantee, making it a requirement for all cases of objection to reassessment, which is contrary to the text of paragraph (2) of Article (65) of the Implementing Regulations of the VAT Law, the Department concludes that the Defendant's argument in this regard should be disregarded.

On Merits, Upon reviewing the case documents and examining the responses of both parties, after granting them sufficient time to present their arguments, the Department established that the Plaintiff objects to the Defendant's decision concerning the final reassessment of the tax period related to July 2019, and the imposition of fines for declaration errors and late payment resulting from the reassessment. The following was noted:

First: Section on Domestic Purchases Subject to the Basic Tax Rate: It is evident that the dispute lies in the Plaintiff's claim to deduct their purchases for the tax period related to July 2019, where the Defendant amended this item by excluding the amounts declared by the Plaintiff therein and adding them to the item of imports subject to the basic Value Added Tax rate. Whereas paragraph

(8) of Article (49) of the Implementing Regulations of the Value Added Tax Law stipulates: “A deduction of Input Tax may be made by a Taxable Person in a Tax Period subsequent to that Tax Period including the date of Supply, provided that the Taxable Person remains eligible to make such deduction under the other provisions of these Regulations. Input tax may not be deducted in any period occurring after five years from the calendar year in which the supply occurred." Upon reviewing what the Plaintiff submitted, the Department found that the nature of the amounts declared in the purchases item is imports, and the Plaintiff did not provide documents proving their entitlement to the deduction. Therefore, the Department concludes that the Defendant's action in this regard is valid.

Second: fine for Error in Tax Return: "Regarding the fine for declaration errors; whereas paragraph (1) of Article (42) of the VAT Law stipulates: "Any Person who files an incorrect Tax Return to the Authority, amends a Tax Return after filing or files any document with the Authority in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due" Whereas the Plaintiff requests the cancellation of the fine resulting from the Defendant's amendment of the Plaintiff's tax declaration related to the fourth quarter of 2018 by excluding the item of domestic purchases subject to the basic tax rate. And whereas the Department has found that the first item above led to the confirmation of the Defendant's action, and since the fine for declaration errors resulted from that, what is related to it takes its ruling, according to the provisions of paragraph (1) of Article (42) of the VAT Tax Law.

Third: Late payment fine: Regarding the late payment fine, whereas paragraph (1) of Article (27) of the VAT Law (Tax Payment) stipulates: "The regulations shall specify the periods, conditions, and controls for the payment of the net tax due by the taxable person." Additionally, Article (59.1) of the Implementing Regulations of the VAT Law states: “Payment of Tax due by a Taxable Person in respect of a Tax Period must be made at the latest by the last day of the month following the end of that Tax Period”. Article (43) of the VAT Law stipulates: “Whoever does not pay the tax due within the period specified by the Regulations shall be fined an amount equaling (5%) of the value of unpaid tax, for each month or fraction of month for which the tax was not paid." Whereas the Plaintiff requests the cancellation of the fine resulting from the Defendant's amendment of the Plaintiff's tax declaration related to the fourth quarter of 2018 by excluding the item of domestic purchases subject to the basic tax rate. And whereas the Department, in the first item above, found the Defendant's action to be valid, and since the late payment fine resulted from that, what is related to it takes its ruling, according to the provisions of Article (43) of the VAT Law, thereby the Department finds the Defendant's decision regarding the imposed fine to be valid.

In light of the foregoing, and after deliberation, the Department unanimously decided to:

Decision:

First: Accept the case in form.

Second: Dismiss the 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.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh

Decision No. VTR-2022-453
Case No. V-62564-2021

Key words:
Value Added Tax (VAT) – Final Reassessment – Local Sales Subject to Basic Tax Rate – Misdeclaration Fine - Late Payment Fine

Abstract

The Taxpayer instituted this claim to cancel ZATCA's decision regarding the final assessment for the tax period related to the third quarter of 2020 and to cancel the fines for misdeclaration and late payment resulting from the reassessment, concerning the item (domestic sales subject to the basic tax rate), where it is evident that the dispute lies in the Defendant's amendment of the sales amount. And where it became clear to the Department that the deeds are owned by the Taxpayer and another person, and that the presented check also included the names of the Taxpayer and their partner in the sold property, and regarding the item (fine for misdeclaration, and late payment fine), since the fine resulted from the reassessment in dispute and is related to it, what is related to it takes its ruling. Therefore; the Defendant is obligated to amend the basic sales item for the period in question to become a total amount of SAR (969,500) nine hundred sixty-nine thousand and five hundred riyals, and the Defendant is obligated to amend the tax and fine amounts for the tax period in question according to what is stated in the second item.

Instruments:

- Article (2) of The Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/14441 AH-
- Common VAT Agreement of GCC states of November 2016
- Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH
- Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 H
- Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. (1535) of 11/06/1425 AH
- Implementing Regulations of the Law of Value Added Tax issued by the General Authority of Zakat and Tax (formerly) Board of Directors Resolution No. (3839) dated Dhu Al-Hijjah 14, 1438 AH corresponding to November 14, 2016 AD

Facts:

Facts of this case are summarized as follows: The Plaintiff (...),ID No. (...), in his own capacity, filed a statement of claim that included their objection to the Defendant's decision regarding the final assessment for the tax period related to the third quarter of 2020, and to the imposition of fines for misdeclaration and late payment resulting from the reassessment. He request cancellation of the Defendant's decision and the fines.

Having presented the statement of claim to Defendant (ZATCA), Defendant answered as follows: That the Plaintiff did not comply with the necessary procedural requirements for submitting the objection, in accordance with Article (49) of the VAT Law. On merits: it was evident from reviewing the Plaintiff's data with the Ministry of Justice that there were revenues not disclosed by the Plaintiff in their declaration submitted for the period in question. ZATCA also requested the Plaintiff to provide a sales statement to verify the accuracy of the tax declaration for the period in question, but the Plaintiff did not provide the required documents. Consequently, ZATCA subjected those sales to the item in question, based on the Ministry of Justice's data and pursuant to the provisions of Article (14) of the Executive Regulations of the Value Added Tax Law, which states, "Without prejudice to Article (2) of the law, and for the purposes of applying the Agreement and the law in the Kingdom, tax shall be imposed on all supplies of goods and services made by any taxable person in the Kingdom...". Concerning the late payment fine and the submission of a false tax declaration, Article (43) of the VAT Law stipulates, "Anyone who fails to pay the due tax within the period specified by the regulations shall be penalized with a fine equivalent to (5%) of the unpaid tax amount for each month or part thereof for which the tax remains unpaid." Since the Plaintiff did not pay the tax for the months following the disputed tax period due to a discrepancy between the declared and due tax amounts, the late payment fine was imposed for the disputed period. Furthermore, after it became clear to ZATCA that the declaration submitted by the Plaintiff was incorrect, a fine for errors in submitting the declaration was imposed based on paragraph (1) of Article (42), which states, "Anyone who submits a false tax declaration to ZATCA, or amends a tax declaration after its submission, or submits a document to ZATCA related to their due tax and this results in an error in calculating the tax amount that is less than the due amount, shall be penalized with a fine equivalent to (50%) of the difference between the calculated and due tax. The Defendant's Representative concluded his memorandum by requesting case inadmissibility in form, and, alternatively, rejected it in merits. End of Answer.

On Monday, 12/01/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Decree (26040) dated 21/14/1441 AH. Having called parties to case, ... Plaintiff's Attorney appeared, (Saudi) attended by virtue of POA No. (...) ID No. ....., as did Mr. (...) (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated .../.../... AH, issued by Deputy Governor for Legal Affairs. Having asked Plaintiff attorney about his case, he maintained his statements contained in the statement of claims submitted to General Secretariat of Zakat, Tax and Customs Committees, and having asked Defendant's representative about his reply, he maintained his answers contained in his replication. Therefore, the Department decided to adjourn the session to February 2, 2022, at 4:00 PM, on the condition that the Plaintiff submits evidence to substantiate their claim before January 19, 2022, and that the Defendant reviews it and submits their response before January 25, 2022. The Department emphasizes the parties' commitment to submitting what is requested on time. In case of delay without an excuse acceptable to the Department, this shall be considered a default according to the provisions of Article (112) of Law of Civil Procedure.

The Plaintiff also submitted a memorandum stating that they own two properties valued at one million nine hundred thirty-nine thousand riyals, and they were charged all the due tax amounts, knowing that they have a partner in the ownership of the two properties. They also submitted deeds, checks, and a bank statement.

The Defendant, ZATCA, submitted a response memorandum stating that the data approved by the Ministry of Justice, based on which the declaration for the second quarter of 2020 was amended, was in the Plaintiff's name only. The Plaintiff is the only one appearing as the seller in these real estate transactions, and the Plaintiff did not present these facts to ZATCA during the examination stage. This concludes Defendant's response.

On Monday, 02/02/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Decree (26040) dated 21/14/1441 AH. Having called parties to case, ... Plaintiff's Attorney appeared, (Saudi) attended by virtue of POA No. (...) ID No. ....., as did Mr. (...) (Saudi, ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated .../.../... AH, issued by Deputy Governor for Legal Affairs. Having asked Plaintiff attorney about his case, he maintained his statements contained in the statement of claims submitted to General Secretariat of Zakat, Tax and Customs Committees, and having asked Defendant's representative about his reply, he maintained his answers contained in his replication. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

Having taken cognizance of documents included in Case file, and perused the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by Board of Directors of the General Authority of Zakat and Income Resolution No. (3839) dated 14/12/1438 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, the Department considered the Case:

In form: the Plaintiff aims in their lawsuit to object to the Defendant's decision concerning the final assessment for the tax period related to the third quarter of 2020, and to the imposition of fines for misdeclaration and late payment resulting from the reassessment, and requests the annulment of the Defendant's decision and the fines, based on the VAT Law and its Implementing Regulations, and since this dispute is a tax dispute, it is considered one of the disputes falling within the jurisdiction of the Committee for Adjudicating Income Tax Violations and Disputes pursuant to Royal Order No. (26040) dated 21/04/1441 AH. And since the lawsuit was filed by a party with standing, and within the legally prescribed period, the Department must accept the case in form.

Regarding the Defendant's argument that there is a procedural defect represented in the Plaintiff's non-compliance with the formal procedures for objection, it is responded that it has been established for the Department that the Plaintiff filed the lawsuit through the electronic portal on July 29, 2021, and was notified of the decision to reject the objection on July 27, 2021. Therefore, the case was filed within the legally prescribed period stipulated in Article (2) of The Tax Dispute and Violation Committee Procedures.

On Merits‹ The Department, having taken cognizance of documents included in Case File, requests, defenses, and pleas raised by parties thereto, found that the dispute lies in Plaintiff's objection to Defendant's decision regarding the final assessment for the tax period related to the third quarter of 2020, and the imposition of fines for misdeclaration and late payment resulting from the reassessment, found the following:

First: Local Taxable Sales at Basic Rate: It is evident that the dispute lies in the Defendant's amendment of the sales amount due to the existence of sales not declared by the Plaintiff according to the data received from the Ministry of Justice. The Plaintiff objects to this and argues that the due tax was imposed on them alone, even though they have a partner in those properties. Upon reviewing what the Plaintiff submitted, it became clear that the deeds are owned by the Plaintiff and another person, and that the presented check also included the names of the Plaintiff and their partner in the sold property. Therefore, the Defendant's action of imposing the due tax on the

sold property on the Plaintiff alone, without their partner, is incorrect, which leads the Department to accept the Plaintiff's claim in this regard.
Second: Misdeclaration fine, and late payment fine: since the fine resulted from the reassessment in dispute and is related to it, what is related to it takes its ruling. And since the Department has concluded to amend the Defendant's decision, this entails amending the fines imposed on the Plaintiff.
In light of the foregoing, and after deliberation, the Department unanimously decided to:

Decision:

First: Accept case in form.
Second: Obligate the Defendant to amend the basic sales item for the period in question to become a total amount of SAR (969,500) nine hundred sixty-nine thousand and five hundred riyals.
Third: Obligate the Defendant to amend the tax and fine amounts for the tax period in question according to what is stated in the second item.
This decision was issued in presence of both parties. The date on which the decision was entered into the electronic system of the General Secretariat of Zakat, Tax, and Customs Committees shall be considered the date of service. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Key words:
Value Added Tax (VAT) – Final Reassessment – Local Taxable Sales at Basic Rate – Local Taxable Purchases at Basic Rate – Misdeclaration Fine - Late Payment Fine

Abstract

The Taxpayer instituted this claim to cancel ZATCA's decision regarding the final reassessment for the tax period related to the third quarter of 2020, and the resulting fines, concerning the item (local sales subject to the basic tax rate), where it is evident that the dispute lies in the Defendant's amendment of the domestic sales item subject to the basic tax rate. And where it became clear to the Department that the Taxpayer did not provide evidence to contradict the sales amounts determined by the Defendant. Therefore, the Department ruled to dismiss Taxpayer's Case.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Common VAT Agreement of GCC States, November 2016.
- 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 (42.1) and (43) of Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH.
- Articles (14), Article (49.2), and (65) of the Implementing Regulations of Value Added Tax Law, issued by Resolution No. (3839) dated 14 Dhu al-Hijjah 1438 AH, corresponding to 14 November 2016 of the Board of Directors of ZATCA (formerly GAZT)

Facts:

Facts of this case are summarized as follows: Mr. (...), ID No. (...), in his capacity as Owner of (...Station), with CR. No. (...), submitted a statement of claim objecting to Defendant's decision regarding the final reassessment for the tax period of 3Q 2020 and the resulting fines. The Plaintiff requests cancellation of Defendant's decision and the associated fines.

Upon presenting the statement of claim to the Defendant, ZATCA, they argued that the decision is time-barred in accordance with paragraph (1) of Article (3) of The Tax Dispute and Violation Committee Procedures, as the reassessment decision was issued on ../../...., and the Plaintiff did not object to ZATCA's decision within the legally prescribed period. The Defendant's Representative concluded their memorandum requesting dismissal of the case. End of Answer.

On Monday, 28/02/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Decree (26040) dated 21/14/1441 AH. Having called parties to case, Plaintiff appeared in its own capacity, and Mr..... appeared. Additionally, (...)

attended (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated ../../.... AH, issued by the Deputy Governor for Legal Affairs. At the beginning of the session, the Plaintiff stated that they sent the correct amounts for the tax declaration to ZATCA, but ZATCA only considered the declared sales amount and disregarded the purchases, which resulted in a large, undue fine. They request ZATCA to consider the purchases or state the reason that led them to disregard the purchases. When ZATCA's Representative was asked to comment on this, they replied that ZATCA does not add purchases during the examination phase. Accordingly, the Department decided to adjourn the hearing of the case to a future session scheduled for March 23 at 5:00 PM. The Defendant is to submit a response on the matter before March 7. The Plaintiff is to review and respond to that before March 14, including evidence to substantiate their claim, such as purchase invoices. The Defendant is to review and submit their response before March 20. In case of delay by either party without an acceptable excuse, this will be considered a refusal to proceed, in accordance with Article 112 of the Law of Civil Procedures.

The Defendant, ZATCA, submitted a defense memorandum moving thereby: ZATCA exercised its authority to reassess, which resulted in amending the item of domestic sales subject to the basic tax rate, as it was found that there were sales not disclosed by the Plaintiff, based on the sales statement submitted by the Plaintiff during the examination and audit phase. Based on Article (14) of the Implementing Regulations of the VAT Law, the basic sales item was amended. Regarding the Plaintiff's request to increase the purchase amount, we inform you that ZATCA did not amend the item of purchases subject to the basic tax rate, as it approved the inputs declared by the Plaintiff. The Plaintiff submitted their declaration on ../../..., and amended the declaration on ../../..., without disclosing any purchases. Based on the foregoing, a fine for errors in submitting the declaration was imposed, based on paragraph (1) of Article (49) of the Implementing Regulations of the VAT Law. The amendment of the tax declaration resulted in a discrepancy in the due tax amount, which was not paid within the legally prescribed period. Therefore, a late payment fine was imposed for the months following the disputed tax period, in accordance with Article (43) of the VAT Law. Defendant representative concluded his Reply with requesting dismissal of the case.

On Wednesday, 03/08/2022, the session was conducted via videoconference, following the remote litigation procedures outlined in Article (15.2) of The Tax Dispute and Violation Committee Procedures, issued by Royal Order No. (26040) dated 21/04/1441 AH. When case parties were called, the Plaintiff appeared in person. Additionally, (...) attended (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated ../../.... AH, issued by the Deputy Governor for Legal Affairs. At the beginning of the session, the Department reviewed what the Plaintiff had submitted, and the Plaintiff stated that they had uploaded a purchase list on the website and were prepared to provide any invoices requested by ZATCA. When ZATCA's representative was asked to comment, they stated that ZATCA did not amend the purchase item, and its value is zero. They added that they amended the sales item based on the information provided by the Plaintiff during the examination phase. When the Plaintiff was asked to comment, they requested the Department to reduce the fines imposed on them, stating that the sales amount determined by ZATCA in the reassessment is correct, but the fines imposed are excessive. The station is for heirs, and the Plaintiff is responsible for it, and the error occurred during the distribution of the inheritance. When the Defendant's representative was asked for their response, they stated that they adhere to what was stated in the response memorandum submitted in the case file. Consequently, the Department decided to adjourn the session for deliberation, in preparation for issuing the decision.

Grounds

Having taken cognizance of documents included in Case file, and perused the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by Board of Directors of the General Authority of Zakat and Income Resolution No. (3839) dated 14/12/1438 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, the Department considered the Case:

In form, the Plaintiff filed the Case to request that the Defendant's decision regarding the final reassessment for the tax period related to the third quarter of 2020, and to the imposition of fines for misdeclaration and late payment resulting from the reassessment, based on the VAT Law and its Implementing Regulations, and since this dispute is a tax dispute, it falls within the jurisdiction of the Committee to Adjudicate Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH. Since the Case was filed by a person with capacity, and within the legal time-limit. Therefore, the Department accepts the Case in form.

Regarding the Defendant's argument that there is a procedural defect represented in the Plaintiff's failure to initially submit their objection before ZATCA prior to filing their lawsuit, it is responded that the Plaintiff attempted to submit an objection to the Defendant, but they conditioned the acceptance of the objection request on the provision of a financial guarantee. Upon reviewing paragraph (2) of Article (65) of the Implementing Regulations of the VAT Law, which states: "In cases where a formal review or appeal is lodged against an appealable decision, and the Authority has evidence or reason to doubt that the Taxable Person may not pay the disputed Tax, the Authority may require a cash security or bank guarantee from the Taxable Person up to a maximum value of the unpaid amount of Tax and associated penalties arising in connection with the decision. A notification requiring cash security or a bank guarantee shall be issued in writing". It turned out that the requirement for a financial guarantee, as per provisions of the mentioned paragraph, is an exception subject to several conditions, including the existence of a case of doubt, an upper limit on the guarantee amount, and the requirement for the guarantee request to be in writing. This confirms that the legislator intended for the financial guarantee requirement in objection cases to be applied in limited circumstances, ensuring that Taxpayer does not lose the right to resort to litigation. After reviewing ZATCA procedure in this matter, the Department found that ZATCA had expanded the requirement for a financial guarantee to apply to all cases of objections to reassessments, contrary to provisions of Paragraph (2) of Article (65) of the Implementing Regulations of the Law of Value Added Tax. Therefore, the Department overlooks ZATCA argument in this regard. On merits, Upon reviewing the case documents and examining the responses of both parties, after granting them sufficient time to present their arguments, the Department established that the Defendant (ZATCA) issued a decision regarding the final reassessment for the tax final period of 3Q 2020 and the imposition of fines for misdeclaration and late payment resulting from the reassessment. The Department found the following:

First: Local Taxable Sales at Basic Rate: It is evident that the dispute lies in the Defendant's amendment item sales subject to the basic tax rate, due to the existence of sales not disclosed by the Plaintiff in their tax declaration. And since the Plaintiff stated in the minutes of the session held on March 23, 2022, that the sales amount determined by ZATCA in the reassessment is correct, and due to the Plaintiff's failure to provide evidence to contradict the sales amounts determined by the Defendant, and based on what is stipulated in Article (14) of the Implementing Regulations of the VAT Law, which states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in

the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom", as such the Department decided to dismiss the Plaintiff's claim in this regard.
Second: Regarding item Local purchases subject to the basic tax rate, it is evident that the dispute lies in the Plaintiff's request to add purchases to the item of local purchases subject to the basic tax rate. The Defendant argues that they did not amend the item and adopted the inputs declared by the Plaintiff in their tax declaration. And since it has been established that the declaration submitted by the Plaintiff did not include any amendment by the Defendant, but rather adopted the Plaintiff's inputs in the declaration submitted by them. Furthermore, the regulator has permitted the Taxpayer to deduct input tax in subsequent tax periods in accordance with the provisions of Article (49) of the Implementing Regulations of the VAT Law. Therefore, the Department decided to dismiss the Plaintiff's claim in this regard.
Third: Regarding item Misdeclaration fine, as the Department ruled to reject Plaintiff's claim regarding the final reassessment for the disputed tax period since the disputed fine is a direct result of and linked item reassessment, it is evident that the Plaintiff made an error in submitting the tax return. Additionally based on Article (42.1) of the VAT Law stating: "Any Person who files an incorrect Tax Return to ZATCA, amends a Tax Return after filing or files any document with ZATCA in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due". Therefore, the Department decided to dismiss the Plaintiff's claim in this regard.
Fourth: Regarding the fine for late payment, and whereas the Department concluded to reject the Plaintiff's claim regarding the final reassessment of the tax period in question in the case, and since the disputed fine resulted from and is related to it, it is therefore evident that the plaintiff was late in paying the tax within the legal period. Based on what is stipulated in Article (43) of the VAT Law, which states: “Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid.” Therefore, the Department decided to dismiss the Plaintiff's claim in this regard.
In light of the foregoing, and after deliberation, the Department unanimously decided to:

Decision:

First: Accept Plaintiff's case in form.
Second: To dismiss the Plaintiff case.
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.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh

Decision No. VTR-2022-641
Case No. V-62784-2021

Key words:
Value Added Tax – Final Reassessment –Fine for Submission of Incorrect Tax Return – Late Payment Fine.

Abstract

Taxpayer seeks annulment of ZATCA's decision regarding the final reassessment for the VAT period of Q1 2018, imposing fines for submission of incorrect tax return and late payment resulting from the reassessment. The dispute, regarding (Taxable Sales at the Standard Rate), centers on local taxable sales at the standard rate. The Department determined that Taxpayer failed to provide sufficient evidence to substantiate their claim and had received payment pre-effective date and completed the transfer of ownership post-effective date. Therefore, the Department ruled to dismiss Taxpayer's Case.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH
- Common VAT Agreement of GCC states of November 2016
- Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH
- Paragraph (1) of Article (42) and Article (43) of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. (1535) of 11/06/1425 AH
- Article (14), Paragraph (2) of Article (65), and Paragraph (1) of Article (79) of the Implementing Regulations of the Value Added Tax Law, issued by Resolution of the Board of Directors of the General Authority of Zakat and Income -formerly- No. (3839) dated 14 Dhu al-Hijjah 1438 AH corresponding to 14 November 2016

Facts:

Facts of the case are summarized that ....., holder of National ID number (.....), in his own capacity, submitted a statement of claim that included their objection to Defendant's decision regarding the final reassessment for the VAT period of Q1 2018, and the imposition of fines for submission of incorrect tax return and late payment resulting from the reassessment, and requests the cancellation of the decision and the imposed fines.

Having presented the statement of claim to Defendant (ZATCA), Defendant answered as follows: Article (49) of Value Added Tax Law stipulates: "Any person against whom a fine decision is issued may appeal such decision as per Tax Dispute and Violation Committee Procedures" Article 2 of Tax Dispute and Violation Committee Procedures has also stated the following: "Any person against whom a decision has been issued by GAZT may file an objection before it within 60 days from the date of notification thereof. GAZT shall decide on the objection within 90 days from the date of filing. If a decision is made to deny the objection or a period of 90 days lapses without

deciding thereon, a Taxpayer may, within 30 days from the date of being notified of the denial of the objection or upon the lapse of 90 days without a decision thereon, take any of the following actions: 2. File a case directly before the dispute committee". Based on the foregoing, the Plaintiff was required to first submit his objection to Zakat, Tax, and Customs Authority before filing his case with the General Secretariat of Tax Committees. This renders the case procedurally flawed for being filed with the Secretariat before fulfilling this prerequisite. Defendant's representative concluded his memorandum by requesting case inadmissibility in form. End of Answer.

On Wednesday, 12/01/2022, the session was convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article (15.2) of The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to case, Plaintiff neither their representative appeared despite being legally notified, and Mr.... (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated ../../... AH, issued by the Deputy Governor for Legal Affairs. Having questioned regarding their response, Defendant's representative affirmed their adherence to the contents of the memorandum of reply. Accordingly, the Department decided to adjourn the case to 02/02/2022 at 4:00 PM, provided that Defendant submits its response no later than 19/01/2022, and that plaintiff reviews the response and submits their reply no later than 25/01/2022. The Department emphasized the parties' obligation to submit the requested documents within the specified deadlines. Any delay without an acceptable excuse shall be considered a default in accordance with the provisions of Article (112) of the Law of Civil Procedures.

Defendant submitted a Reply, stating: Section on Domestic Sales Subject to the Basic Tax Rate: ZATCA exercised its powers granted under Article (26) of the Value Added Tax Law and Paragraph (1) of Article (64) of the Implementing Regulations thereof, thereby reassessing the tax period in question. The reassessment resulted in subjecting undisclosed revenue to taxation, as Plaintiff had not reported thereof in their tax return, following a review of Plaintiff's real estate sales data with the Ministry of Justice, in accordance with Paragraph (2) of Article (56) of the Implementing Regulations of the Value Added Tax Law. Consequently, ZATCA issued a decision to amend the aforementioned item to a value of SAR (10,340,000). Accordingly, ZATCA maintains the validity of its decision to subject such revenues to taxation at the standard rate, pursuant to Article (14) of the Implementing Regulations of the VAT Law. ZATCA, during inspection of the tax return, indicates that it requested Plaintiff to provide supporting documents to verify the accuracy thereof through the system, in accordance with Paragraph (6) of Article (66) of the Implementing Regulations. However, Plaintiff failed to provide justifications for the discrepancies or submit the required documents, thereby breaching their obligation under Article (56) of the Implementing Regulations of the Value Added Tax (VAT) Law, which mandates Taxpayer to provide ZATCA with any requested information to substantiate tax obligations. Regarding Plaintiff's objection to fines for submission of incorrect tax return and late payment: As a result of the audit and reassessment of the disputed tax period, a fine for submission of incorrect tax return was imposed in accordance with Paragraph (1) of Article (42) of the Value Added Tax Law. Consequently, a late payment fine was also imposed for the months following the disputed tax period, as previously explained, in accordance with Article (43) of the Value Added Tax Law. Defendant's representative concluded his memorandum by requesting case inadmissibility in form.

On Wednesday, 02/02/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to case, ... Plaintiff's representative appeared, under POA No. (...) holder of ID No. (...), and (....) (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....) dated ../../...AH, issued by the Deputy Governor for Legal Affairs. At the beginning of the session, Plaintiff's representative requested an extension to submit their response to Defendant's memorandum. In response, Defendant's

representative commented that the decisive factor in the supply is the date of property transfer. Accordingly, the Department decided to adjourn the session to 02/20/2022 at 4:00 PM, provided that Plaintiff submits the requested documents for which the extension was sought no later than 04/02/2022. Defendant shall review the submission and provide a response, including the legal provision supporting the argument that the decisive factor in the supply is the date of property transfer, by 10/2/2022. Plaintiff shall then review the response and submit their reply no later than 17/02/2022. The Department emphasized that both parties must submit the required documents within the specified deadlines. If a party fails to comply without an acceptable excuse, this will be considered a refusal to proceed, in accordance with Article 112 of the Law of Civil Procedures.
Plaintiff submitted a memorandum wherein replied as follows: On merits: First: The Value Added Tax Law, issued by Royal Decree No. (M/113), was published on 04/11/1438 AH (corresponding to 27/07/2017) and came into effect on 14/04/1439 AH (corresponding to 01/01/2018). The disputed tax amount in this case pertains to contracts concluded prior to the publication date of the law, as follows: 1. The sale contract concluded between my client and Mr. (...) on ../../... for the sale of nine (9) residential units, totaling SAR 9,000,000 (nine million riyals), as evidenced by Check No. (...) dated ../../..., drawn on (...) and accompanied by the deposit receipt (Attachment No. 2). 2. The sale contract concluded between my client and heirs of (...) dated ../../..., for the sale of two (2) residential units, totaling SAR 2,500,000 (two million five hundred thousand riyals), as evidenced by Check No. (...) drawn on (... Bank) and deposited on ../../... (Attachment No. 3). Second: The disputed tax amount in question was calculated based on financial transfers made from my client's bank accounts to other bank accounts belonging to them, solely for the purpose of completing the property transfer procedures before the notary. However, this does not apply to the real estate supply transaction in which my client sold a residential unit to Ms. (...), who subsequently paid the property value amounting to SAR 840,000 (eight hundred and forty thousand riyals) at the time of transfer on ../../.... Based on the foregoing, we respectfully request reversal of the disputed tax amount in question, along with the associated fines for late payment and submission of incorrect tax return. Additionally, we request the consolidation of the case under your consideration, Case No. (64047-2021-7), pertaining to Q2 2018, due to their shared subject matter and relevance.
Moreover, Defendant, ZATCA, submitted a memorandum of reply, which included the following: In form, ZATCA maintains its formal defenses as outlined in previous memoranda of reply. Plaintiff, in their response regarding formal aspects, admitted to a declaration that contradicts their financial solvency, claiming an inability to provide the financial guarantee. However, the volume of sales, which they did not deny before the Department, amounted to SAR (10,340,000), which indicates to Your Honor that Plaintiff does not intend to follow the proper legal course and complete the required legal procedures for filing an objection before ZATCA. Paragraph (1) of Article (3) of Tax Dispute and Violation Committee Procedures stipulates "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." Accordingly, the Honorable Department's consideration of the subject matter of the case while disregarding formal aspects, for reasons that do not align with Plaintiff's actual circumstances, may set a precedent for others to disregard statutory procedures. This would also constitute a failure to safeguard public funds, for which the state has established procedural mechanisms for objections.
On merits,
Regarding ZATCA's decision to add amounts to the taxable local sales at the standard rate: Plaintiff's reliance on contracts concluded with clients to establish the completion of real estate supply for the sold residential units prior to the enforcement of the law does not constitute proof of the supply process. Paragraph (1) of Article (79) of the Implementing Regulations of the Vat Law, concerning transitional provisions, states "In the cases specified in the Law, If an invoice is issued or Consideration is paid before the commencement date of the Law in respect of a Supply which occurs on or after the commencement date of the Law in accordance with the provisions

of this Article, the Supplier of the Goods or services shall be considered to make a Taxable Supply on the date the Goods or services are supplied, in accordance with the Agreement. In such cases the Taxable Person shall issue an additional invoice showing the Tax charged on the Supply of Goods or services, unless this Tax was included on the invoice issued before the commencement date of the Law." Accordingly, Plaintiff received the amounts prior to the enforcement of the law and acknowledged this before the Department, but the supply occurred after the enforcement (i.e.,Q1 2018), as evidenced by the records obtained from the Ministry of Justice. Paragraph (1) of Article (5) of the Common VAT Agreement of GCC States identified the term "supply of goods" as follows: "1. A Supply of Goods means the transfer of ownership of such Goods or the right to dispose of the same as an owner". Accordingly, such supply is subject to VAT. ZATCA also emphasizes that the decisive factor in the supply is the date of property transfer, in accordance with the provisions of the Real Estate Registration Law, which states in Article (36): "All transactions that establish, transfer, modify, or extinguish real property rights, whether original or accessory, must be recorded in the real estate register, along with final judgments confirming such transactions. These transactions include property division, wills, endowments, inheritance, and mortgages. They shall not be effective against third parties until registration thereof." Therefore, it is clear to Your Honor that real estate transactions that are not recorded in the real estate register (i.e., not officially transferred) have no legal effect on third parties until the date of registration thereof. Plaintiff's submission of handover records for the residential units is limited to the right of use and does not constitute the transfer of ownership to their clients or granting them the right to dispose of the property. This does not constitute proof of ownership transfer, as it is well understood that ownership transfer entails granting the new owner the right of disposal, usage, and revenue generation from the property.

On Sunday, 20/02/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to case, ... Plaintiff's representative (....) appeared, (Saudi) attended by virtue of POA No. (...) and ID No.(...) Additionally, (...) attended (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated 08/03/1442 AH, issued by the Deputy Governor for Legal Affairs. Plaintiff's representative, at the beginning of the session, stated that her client had submitted a memorandum of reply along with attachments. Upon request for comments, Defendant's representative confirmed that his client had reviewed Plaintiff's memorandum and had submitted a response, which was included in the case file. When the Department questioned Plaintiff's representative whether the dispute concerned only the first contract amounting to 9 million SAR and the second contract amounting to SAR (2,500,000), on the grounds that these amounts were delivered in 2015 and the contracts were signed in 2017, while the remaining contracts mentioned in the memorandum are not disputed, the representative confirmed this to be correct. When the Department questioned Plaintiff's representative regarding the first and second attached contracts and whether they were preliminary contracts, as indicated by the title of each contract, the representative confirmed this to be correct and added that they are also considered final contracts. In response to the Department's questions, the representative further stated that the amounts paid in 2015 were intended for participation in a real estate project, and that the certified checks attached were issued by the buyers. The contracts concluded with their client were signed by both parties, and the buyers had the right to sell or dispose of the property in 2017 under mutual agreements, as they were the rightful owners. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

Having taken cognizance of documents included in Case file, and perused the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by Board of Directors of the General Authority of Zakat and Income Resolution No. (3839) dated 14/12/1438 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, the Department considered the Case:

In Form, Since Plaintiff filed this Case for the purpose of challenging the final reassessment results for the VAT period of Q1 2018, including the imposition of fines for submission of incorrect tax return and late payment, based on Value Added Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

Regarding the Defendant's argument that there is a procedural defect represented in the Plaintiff's failure to initially submit their objection before ZATCA prior to filing their lawsuit, it is responded that the Plaintiff attempted to submit an objection to the Defendant, but they conditioned the acceptance of the objection request on the provision of a financial guarantee. Upon reviewing paragraph (2) of Article (65) of the Implementing Regulations of the VAT Law, which states: "In cases where a formal review or appeal is lodged against an appealable decision, and the Authority has evidence or reason to doubt that the Taxable Person may not pay the disputed Tax, the Authority may require a cash security or bank guarantee from the Taxable Person up to a maximum value of the unpaid amount of Tax and associated penalties arising in connection with the decision. A notification requiring cash security or a bank guarantee shall be issued in writing". It turned out that the requirement for a financial guarantee, as per provisions of the mentioned paragraph, is an exception subject to several conditions, including the existence of a case of doubt, an upper limit on the guarantee amount, and the requirement for the guarantee request to be in writing. This confirms that the legislator intended for the financial guarantee requirement in objection cases to be applied in limited circumstances, ensuring that Taxpayer does not lose the right to resort to litigation. After reviewing ZATCA procedure in this matter, the Department found that ZATCA had expanded the requirement for a financial guarantee to apply to all cases of objections to reassessments, contrary to provisions of Paragraph (2) of Article (65) of the Implementing Regulations of the Law of Value Added Tax. Therefore, the Department overlooks ZATCA argument in this regard.

In Merits, Upon reviewing the case documents and examining the responses of both parties, after granting them sufficient time to present their arguments, the Department established that the Defendant (ZATCA) issued a decision regarding the final reassessment for the tax period related to the first quarter of 2018, and the imposition of fines for submission of incorrect tax return and late payment resulting from the reassessment. The Department found the following:

First: Taxable Sales at the Standard Rate: The dispute lies in the taxable local sales at the standard rate, arising from Defendant's adjustment of this item by increasing the amount by SAR 10,430,000, based on Plaintiff's real estate sales data obtained from the Ministry of Justice. Moreover, Plaintiff failed to provide evidence to substantiate their claim, in accordance with Article (14) of the Implementing Regulations of the VAT Law, which states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the

Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom." Accordingly, the Department deems it appropriate to uphold Defendant's position and affirms the validity of its final reassessment decision.

With regard to Plaintiff's claim that the contracts related to the supplies in question were concluded prior to the publication of the VAT Law, which is evidenced by Paragraph (1) of Article (79) of the Implementing Regulations of the VAT Law, which states: "In the cases specified in the Law, If an invoice is issued or Consideration is paid before the commencement date of the Law in respect of a Supply which occurs on or after the commencement date of the Law in accordance with the provisions of this Article, the Supplier of the Goods or services shall be considered to make a Taxable Supply on the date the Goods or services are supplied ..". Furthermore, Paragraph (1) of Article (5) of the Common VAT Agreement of GCC States stipulates: "1. A Supply of Goods means the transfer of ownership of such Goods or the right to dispose of the same as an owner". Since Plaintiff received the amounts prior to the enforcement of the law and transferred ownership after its enforcement, the Department concludes to disregard Plaintiff's argument in this regard.

Second: The Department concluded that Defendant's decision regarding the final reassessment of the tax period in question is valid, and since the fine under dispute is a result of and linked to this reassessment, it is evident that Plaintiff erred in submitting the tax return, pursuant to Paragraph (1) of Article (42) of the VAT Law, which states: "Any Person who files an incorrect Tax Return to ZATCA, amends a Tax Return after filing or files any document with ZATCA in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due". Accordingly, the Department upholds the validity of Defendant's decision to impose the fine.

Third: The Department concluded that Defendant's decision regarding the final reassessment of the tax period in question is valid, and since the fine under dispute is a result of and linked to this reassessment, it is evident that Plaintiff delayed in paying the tax due within the statutory period, pursuant to Article (43) of the VAT Law, which states: "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid." Accordingly, the Department concludes by upholding the validity of the Defendant's procedure in imposing the fine.

In light of the foregoing, and after deliberation, the Department unanimously decided to:

Decision:

First: Accept Plaintiff's case in form.

Second: To dismiss the Plaintiff case.

This decision was delivered in the presence of both parties. The date on which the decision was entered into the e-system of the General Secretariat of Zakat, Tax, and Customs Committees shall be considered the date of decision delivery. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt, whereafter, the decision shall be final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes Third Department to Adjudicate Value Added Tax Violations and Disputes inRiyadh

Decision No. VTR-2022-643
Case No. V-64047-2021

Key words:

Value Added Tax – Final Reassessment – Taxable Sales at the Standard Rate–Fine for Submission of Incorrect Tax Return– Late Payment Fine.

Abstract

Taxpayer seeks annulment of ZATCA's decision regarding the final reassessment for the VAT period of Q2 2018, imposing fines for submission of incorrect tax return and late payment resulting from the reassessment. The dispute, regarding (Taxable Sales at the Standard Rate), centers on local taxable sales at the standard rate. The Department determined that Taxpayer failed to provide sufficient evidence to substantiate their claim. Therefore, the Department ruled to dismiss Taxpayer's Case.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Common VAT Agreement of GCC States, November 2016.
- Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH
- Paragraph (1) of Article (42) and Article (43) of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. (1535) of 11/06/1425 AH
- Article (14), Paragraph (2) of Article (65), and Paragraph (1) of Article (79) of the Implementing Regulations of the Value Added Tax Law, issued by Resolution of the Board of Directors of the General Authority of Zakat and Income -formerly- No. (3839) dated 14 Dhu al-Hijjah 1438 AH corresponding to 14 November 2016

Facts:

Facts of the case are summarized that ....., holder of National ID number (.....), in his own capacity, filed a statement of claim, challenging Defendant's decision regarding the final reassessment for the VAT period of Q2 2018 , imposing fines for submission of incorrect tax return and late payment resulting from the reassessment. Therefore, Plaintiff seeks annulment of the decision along with the imposed fines.

Having presented the statement of claim to Defendant (ZATCA), Defendant answered as follows: With reference to the case outlined above, we respectfully inform the esteemed committee that Plaintiff failed to raise an objection with ZATCA in accordance with Tax Dispute and Violation Committee Procedures. Paragraph (1) of Article (3) thereof states: "GAZT's decisions shall be final and unappealable before any other agency in the following cases: 1. If a Taxpayer does not object to the decision within 60 days from the date of notification thereof." Since ZATCA's decision to reassess was issued on 15/06/2021 and Plaintiff did not file an objection within the

aforementioned statutory period, the contested decision thus becomes final due to the lapse of the objection period, in accordance with Paragraph (1) of Article (3) of Tax Dispute and Violation Committee Procedures. Defendant's representative concluded his memorandum by requesting case inadmissibility in form. End of Answer.

Furthermore, Plaintiff submitted a memorandum of reply stating that all formal procedures were fulfilled; however, they were unable to complete the objection process with ZATCA due to the requirement to pay the disputed amount or provide a bank guarantee, which was not available. Regarding the 60-day objection period mentioned by ZATCA, after which ZATCA's decision becomes final, we would like to inform you that we were notified of the re-assessment by ZATCA on 15/06/2021 and submitted our objection to the Secretariat on 10/08/2021, which was before the expiry of the period. The objection raised against ZATCA was not feasible due to the requirement of paying the disputed amount.

On Sunday, 26/01/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to case, ... Plaintiff's representative (....) appeared, (Saudi) attended by virtue of POA No. (...) and ID No.(...) Additionally, (...) attended (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated .../12/1443 AH issued by the Deputy Governor for Legal Affairs. Having asked Plaintiff's representative regarding their case, they responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming contents of the memorandum of reply. When Plaintiff's representative was asked whether she had submitted a response to ZATCA's formal defense and attached all the disputed contracts, she stated that she would like to be granted an extension to submit a response to ZATCA's formal defense and provide additional documents. Upon requesting a comment from Defendant's representative, he stated that his client insists on such defense. Therefore, the Department decided to adjourn the hearing to February 20 at 4:00 PM, contingent upon Plaintiff's representative submitting the extended-deadline documents before February 2. ZATCA must then review the same submit its response, addressing both form and merits, by February 9. In the event that the parties are delayed without an excuse acceptable to the Department, this shall be considered a refusal according to the provisions of Article One Hundred and Twelve of the Code of Civil Procedure.

Plaintiff submitted a memorandum wherein replied as follows: In form, Defendant's decision was issued on 15/06/2021, and the objection was filed with Defendant on 29/06/2021, within the statutory period, in accordance with Article (2) of Tax Dispute and Violation Committee Procedures. However, the objection was rejected and was saved as a draft on the website due to the inability to pay the tax amount or provide a bank guarantee. On merits, First: The Value Added Tax Law, issued by Royal Decree No. (M/113), was published on 04/11/1438 AH (corresponding to 27/07/2017) and came into effect on 14/04/1439 AH (corresponding to 01/01/2018). The disputed tax amount in this case pertains to contracts concluded as follows: 1. The sale contract concluded between my client and Mr. (...) on ../../... for the sale of two (2) residential units, totaling SAR 2,500,000 (two million five hundred thousand riyals), paid to my client, Plaintiff, as evidenced by Check No. (...) dated 02/11/2015, drawn on (.... Bank), and deposited on ../../... (Attachment No. 3).. 2. The sale contract concluded between my client and Mr. (...) dated ../../... for the sale of one (1) residential unit, totaling SAR 1,000,000 (one million riyals). My client, Plaintiff, received a down payment of SAR 50,000 (fifty thousand riyals) upon signing the contract, and the buyer subsequently paid the full property price of SAR 1,000,000 (one million riyals) via a certified check (Attachment No. 4). Second: The disputed tax amount in question was calculated based on financial transfers made from my client's bank accounts to other bank accounts belonging to them, solely for the purpose of completing the property transfer procedures before the notary. However, this does not apply to the following real estate supply transactions: 1. The sale of a residential unit by my client, Plaintiff, to Ms. (…), who paid a down payment of SAR 5,000 (five thousand riyals)

on ../../...., and subsequently paid the full property price in cash amounting to SAR 600,000 (six hundred thousand riyals) upon property transfer on ../../…. 2. The sale of a residential unit by my client, Plaintiff, to Mr. (…), who paid a down payment of SAR 10,000 (ten thousand riyals) on ../../...., and subsequently paid the full property price in cash amounting to SAR 600,000 (six hundred thousand riyals) upon property transfer on ../../…. Based on the foregoing, we respectfully request reversal of the disputed tax amount in question, along with the associated fines for submission of incorrect tax return and late payment. Additionally, we request the consolidation of the case under your consideration, Case No. (62784-2021-7), pertaining to Q1 2018, due to their shared subject matter and relevance.

Moreover, Defendant, ZATCA, submitted a memorandum of reply, which included the following: Section on Domestic Sales Subject to the Basic Tax Rate: ZATCA exercised its powers granted under Article (26) of the Value Added Tax Law and Paragraph (1) of Article (64) of the Implementing Regulations thereof, thereby reassessing the tax period in question. The reassessment resulted in subjecting undisclosed revenue to taxation, as Plaintiff had not reported thereof in their tax return, following a review of Plaintiff's real estate sales data with the Ministry of Justice, in accordance with Paragraph (2) of Article (56) of the Implementing Regulations of the Value Added Tax Law. Consequently, ZATCA issued a decision to amend the aforementioned item to a value of SAR (5,365,000). Accordingly, ZATCA maintains the validity of its decision to subject such revenues to taxation at the standard rate, pursuant to Article (14) of the Implementing Regulations of the VAT Law. ZATCA, during inspection of the tax return, indicates that it requested Plaintiff to provide supporting documents to verify the accuracy thereof through the system, in accordance with Paragraph (6) of Article (66) of the Implementing Regulations. However, Plaintiff failed to provide justifications for the discrepancies or submit the required documents, thereby breaching their obligation under Article (56) of the Implementing Regulations of the Value Added Tax (VAT) Law, which mandates Taxpayer to provide ZATCA with any requested information to substantiate tax obligations. Regarding Plaintiff's objection to fines for submission of incorrect tax return and late payment: As a result of the audit and reassessment of the disputed tax period, a fine for submission of incorrect tax return was imposed in accordance with Paragraph (1) of Article (42) of the Value Added Tax Law. Consequently, a late payment fine was also imposed for the months following the disputed tax period, as previously explained, in accordance with Article (43) of the Value Added Tax Law. Defendant's representative concluded his memorandum by requesting case inadmissibility in form.

On Sunday, 20/02/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to case, ... Plaintiff's representative (....) appeared, (Saudi) attended by virtue of POA No. (...) and ID No.(...) Additionally, (...) attended (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated ../../....., issued by the Deputy Governor for Legal Affairs. Plaintiff's representative, at the beginning of the session, stated that her client had submitted a memorandum of reply along with attachments. Upon request for comments, Defendant's representative confirmed that his client had reviewed Plaintiff's memorandum and had submitted a response, which was included in the case file. When the Department questioned Plaintiff's representative whether the dispute concerned only the first contract amounting to SAR (2,500,000), on the grounds that this amount was delivered in 2015 and the contracts were signed in 2017, while the remaining contracts mentioned in the memorandum are not disputed, the representative confirmed this to be correct. When asked about the first attached contract and whether it was a preliminary contract, as indicated in its title, Plaintiff's representative confirmed that it is indeed preliminary and added that it also serves as a final contract. In response to the Department's questions, she further stated that the amount of (2,500,000) paid in 2015 was intended for participation in a real estate project, and that the certified check attached were issued by the buyer. The contract concluded with her client

was signed by both parties, and the buyer had the right to sell or dispose of the property in 2017 under mutual agreements, as they were the rightful owners. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

Having taken cognizance of documents included in Case file, and perused the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by Board of Directors of the General Authority of Zakat and Income Resolution No. (3839) dated 14/12/1438 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, the Department considered the Case:

In Form, Since Plaintiff filed this Case for the purpose of challenging the final reassessment results for the VAT period of Q2 2018, including the imposition of fines for submission of incorrect tax return and late payment, based on Value Added Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

With regard to Defendant's formal defense, which claims that Plaintiff failed to initially file an objection with ZATCA before filing their case, Plaintiff's representative responded that Plaintiff attempted to file an objection with Defendant; however, Defendant required a financial guarantee as a condition for accepting the objection. Upon reviewing Paragraph (2) of Article (65) of the Implementing Regulations of the VAT Law, which states: "In cases where a formal review or appeal is lodged against an appealable decision, and the Authority has evidence or reason to doubt that the Taxable Person may not pay the disputed Tax, the Authority may require a cash security or bank guarantee from the Taxable Person up to a maximum value of the unpaid amount of Tax and associated penalties arising in connection with the decision. A notification requiring cash security or a bank guarantee shall be issued in writing". It turned out that the requirement for a financial guarantee, as per provisions of the mentioned paragraph, is an exception subject to several conditions, including the existence of a case of doubt, an upper limit on the guarantee amount, and the requirement for the guarantee request to be in writing. This confirms that the legislator intended for the financial guarantee requirement in objection cases to be applied in limited circumstances, ensuring that Taxpayer does not lose the right to resort to litigation. After reviewing ZATCA procedure in this matter, the Department found that ZATCA had expanded the requirement for a financial guarantee to apply to all cases of objections to reassessments, contrary to provisions of Paragraph (2) of Article (65) of the Implementing Regulations of the Law of Value Added Tax. Therefore, the Department overlooks ZATCA argument in this regard.

On merits, the Department, upon examination of the case documents and the responses of both parties after granting them sufficient time to present their arguments and evidence, established that Defendant issued its decision regarding the final reassessment for the VAT period of Q2 2018 and imposed fines for submission of incorrect tax return and late payment resulting from the reassessment. The following has been determined:

First: Taxable Sales at the Standard Rate: The dispute lies in the taxable local sales at the standard rate, arising from Defendant's adjustment of this item by increasing the amount by SAR 5365000, based on Plaintiff's real estate sales data obtained from the Ministry of Justice. Moreover, Plaintiff

failed to provide evidence to substantiate their claim, in accordance with Article (14) of the Implementing Regulations of the VAT Law, which states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom." Accordingly, the Department deems it appropriate to uphold Defendant's position and affirms the validity of its final reassessment decision.

With regard to Plaintiff's claim that the contracts related to the supplies in question were concluded prior to the publication of the VAT Law, which is evidenced by Paragraph (1) of Article (79) of the Implementing Regulations of the VAT Law, which states: "In the cases specified in the Law, If an invoice is issued or Consideration is paid before the commencement date of the Law in respect of a Supply which occurs on or after the commencement date of the Law in accordance with the provisions of this Article, the Supplier of the Goods or services shall be considered to make a Taxable Supply on the date the Goods or services are supplied ..". Furthermore, Paragraph (1) of Article (5) of the Common VAT Agreement of GCC States stipulates: "1. A Supply of Goods means the transfer of ownership of such Goods or the right to dispose of the same as an owner". Since Plaintiff received the amounts prior to the enforcement of the law and transferred ownership after its enforcement, the Department concludes to disregard Plaintiff's argument in this regard.

Second: The Department concluded that Defendant's decision regarding the final reassessment of the tax period in question is valid, and since the fine under dispute is a result of and linked to this reassessment, it is evident that Plaintiff erred in submitting the tax return, pursuant to Paragraph (1) of Article (42) of the VAT Law, which states: "Any Person who files an incorrect Tax Return to ZATCA, amends a Tax Return after filing or files any document with ZATCA in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due". Accordingly, the Department upholds the validity of Defendant's decision to impose the fine.

Third: The Department concluded that Defendant's decision regarding the final reassessment of the tax period in question is valid, and since the fine under dispute is a result of and linked to this reassessment, it is evident that Plaintiff delayed in paying the tax due within the statutory period, pursuant to Article (43) of the VAT Law, which states: "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid." Accordingly, the Department concludes by upholding the validity of the Defendant's procedure in imposing the fine.

In light of the foregoing, and after deliberation, the Department unanimously decided to:

Decision:

First: Accept Plaintiff's case in form.

Second: To dismiss the Plaintiff case.

This decision was delivered in the presence of both parties. The date on which the decision was entered into the e-system of the General Secretariat of Zakat, Tax, and Customs Committees shall be considered the date of decision delivery. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt, whereafter, the decision shall be final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes Third Department to Adjudicate Value Added Tax Violations and Disputes inRiyadh

Decision No. VTR-2022-644
Case No. V-65746-2021

Key words:
Value Added Tax – Final Reassessment –Fine for Submission of Incorrect Tax Return– Late Payment Fine.

Abstract

Taxpayer seeks annulment of ZATCA's decision regarding the final reassessment for the VAT period of Q2 2018, imposing fines for submission of incorrect tax return and late payment resulting from the reassessment. However, with respect to the imposition of such fines, Taxpayer failed to provide evidence demonstrating that they were unjustly imposed. Therefore, the Department decided to dismiss the case.

Instruments:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Paragraph (1) of Article (42) and Article (43) of Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH
- Common VAT Agreement of GCC States, November 2016.
- 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 (2) of Article (65) of the Implementing Regulations of the Value Added Tax Law, issued by Resolution of the Board of Directors of the General Authority of Zakat and Income -formerly- No. (3839) dated 14 Dhu al-Hijjah 1438 AH corresponding to 14 November 2016

Facts:

Facts of the case are summarized that ....., holder of National ID number (.....), in his own capacity, filed a statement of claim, challenging Defendant's decision regarding the final reassessment for the VAT period of Q2 2018 , imposing fines for submission of incorrect tax return and late payment resulting from the reassessment. Therefore, Plaintiff seeks annulment of Defendant's decision along with the imposed fines.

Having presented the statement of claim to Defendant (ZATCA), Defendant answered as follows: In form, the decision has become final due to the expiration of the statutory objection period, in accordance with Paragraph (1) of Article (3) of Tax Dispute and Violation Committee Procedures, as the decision was issued on 29/06/2021. First: Taxable Sales at the Standard Rate: Plaintiff submitted their tax return for the disputed tax periods and disclosed local taxable sales at the standard rate. On the other hand, ZATCA exercised its powers granted under Paragraph (1) of Article (26) of the Value Added Tax Law, as well as Paragraph (1) of Article (64) of its Implementing Regulations. As a result, ZATCA adjusted the local taxable sales at the standard rate

to SAR (1,206,500) due to sales transactions that Plaintiff did not report In their tax return for the relevant period, according to the data received from the Ministry of Justice. Accordingly, ZATCA exercised its powers and subjected these amounts to VAT in accordance with Article (14) of the Implementing Regulations of VAT Law. Second: Fines for Submission of Incorrect Tax Return and Late Payment: A late payment fine was imposed for the period in question, in accordance with Article (43) of the Value Added Tax Law, and due to Plaintiff's failure to pay the tax for the months following the tax period in question as a result of a discrepancy between the declared tax amount and the amount due. Additionally, after ZATCA determined that Plaintiff's submitted return was inaccurate, a fine for submission of incorrect tax return was imposed based on Paragraph (1) of Article (42) of VAT Law. Defendant's representative concluded his memorandum by requesting case inadmissibility in form, and, alternatively, dismissal on merits. End of Answer.

On Wednesday, 23/02/2022, the session was convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article (15.2) of The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to case, Plaintiff neither their representative appeared despite being legally notified, and Mr.... (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated ../../... AH, issued by the Deputy Governor for Legal Affairs. The Department, due to a technical malfunction and to grant Plaintiff an opportunity to attend, decided to adjourn the hearing to March 21.

On Monday, 21/03/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Decree (26040) dated 21/04/1441 AH. Having called parties to case, Plaintiff appeared in its own capacity, and Mr....., a Saudi National under National ID No. (....), appeared in his capacity as ZATCA's representative, by virtue of Authorization Letter No. (.....) dated .../../.... issued by the Deputy Governor for Legal Affairs. Having asked Plaintiff regarding their case, they responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming contents included therein. Plaintiff further limited their requests to the nullification of the fines imposed in the reassessment notice for the tax period. When Defendant's representative was asked for his response, he replied by insisting on the arguments presented in the memorandum of reply. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. According, the Department closed the pleadings and decided to adjourn the case to April 4 at 2:00 PM for adjudication.

On Monday, 04/04/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to case, Plaintiff appeared in its own capacity, and Additionally, (...) attended (Saudi National, under National ID No. (...) in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated .../.../... AH issued by the Deputy Governor for Legal Affairs. Having asked the Plaintiff regarding his case, they responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming contents of the memorandum of reply. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

Having taken cognizance of documents included in Case file, and perused the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH as amended, and its Implementing Regulations issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH as amended, the Law of Value Added Tax promulgated by Royal Decree No.

(M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by Board of Directors of the General Authority of Zakat and Income Resolution No. (3839) dated 14/12/1438 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, the Department considered the Case:

In Form, Since Plaintiff filed this Case for the purpose of challenging the final reassessment results of fine imposition for the VAT period of Q2 2018, based on Value Added Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

Regarding the Defendant's argument that there is a procedural defect represented in the Plaintiff's failure to initially submit their objection before ZATCA prior to filing their lawsuit, it is responded that the Plaintiff attempted to submit an objection to the Defendant, but they conditioned the acceptance of the objection request on the provision of a financial guarantee. Upon reviewing paragraph (2) of Article (65) of the Implementing Regulations of the VAT Law, which states: "In cases where a formal review or appeal is lodged against an appealable decision, and the Authority has evidence or reason to doubt that the Taxable Person may not pay the disputed Tax, the Authority may require a cash security or bank guarantee from the Taxable Person up to a maximum value of the unpaid amount of Tax and associated penalties arising in connection with the decision. A notification requiring cash security or a bank guarantee shall be issued in writing". It turned out that the requirement for a financial guarantee, as per provisions of the mentioned paragraph, is an exception subject to several conditions, including the existence of a case of doubt, an upper limit on the guarantee amount, and the requirement for the guarantee request to be in writing. This confirms that the legislator intended for the financial guarantee requirement in objection cases to be applied in limited circumstances, ensuring that Taxpayer does not lose the right to resort to litigation. After reviewing ZATCA procedure in this matter, the Department found that ZATCA had expanded the requirement for a financial guarantee to apply to all cases of objections to reassessments, contrary to provisions of Paragraph (2) of Article (65) of the Implementing Regulations of the Law of Value Added Tax. Therefore, the Department overlooks ZATCA argument in this regard.

On merits, the Department, upon examination of the case documents and the responses of both parties after granting them sufficient time to present their arguments and evidence, established that Defendant issued its decision regarding the final reassessment for the VAT period of Q2 2018 and imposed fines for submission of incorrect tax return and late payment resulting from the reassessment. The following has been determined:

First: Fine for Submission of Incorrect Tax Return: The Department, upon reviewing Defendant's decision regarding the final reassessment for the VAT period of Q2 2018 and since Plaintiff failed to provide evidence substantiating the non-applicability of the fine, demonstrated that Plaintiff erred in filing the tax return. As such, Paragraph (1) of Article (42) of the Value Added Tax Law states: "Any Person who files an incorrect Tax Return to ZATCA, amends a Tax Return after filing or files any document with ZATCA in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due". Accordingly, the Department upholds the validity of Defendant's decision to impose the fine.

Second: Late payment fine: The Department, upon reviewing Defendant's decision regarding the final reassessment for the VAT period of Q2 2018 and since Plaintiff failed to provide evidence substantiating the non-applicability of the fine, demonstrated that Plaintiff delayed paying the tax within the statutory period. Article (43) of the Value Added Tax Law states: "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to

5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid." Accordingly, the Department concludes by upholding the validity of the Defendant's procedure in imposing the fine.

In light of the foregoing, and after deliberation, the Department unanimously decided to:

Decision:

First: Accept case in form.

Second: Dismiss the 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

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Tax Violations and Disputes Settlement Committee Third Department to Adjudicate Value Added Tax Violations and Disputes in Riyadh

Decision No. VTR-2022-646
Case No. V-81611-2021

Key words:
Value Added Tax – Final Reassessment – Taxable Sales at the Standard Rate–Fine for Submission of Incorrect Tax Return– Late Payment Fine.

Abstract

Taxpayer seeks annulment of ZATCA's decision regarding the final reassessment for the VAT period of Q1 2020, imposing fines for submission of incorrect tax return and late payment resulting from the reassessment. The dispute, regarding (Taxable Sales at the Standard Rate), centers on local taxable sales at the standard rate. The Department determined that Taxpayer sold a property amounting to SAR (836,250) and failed to provide sufficient evidence to substantiate otherwise. Therefore, the Department dismisses the claim.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Articles (42.1) and (43) of Law of Value Added Tax promulgated by Royal Decree No. (M/113) of 02/11/1438 AH.
- Common VAT Agreement of GCC States, November 2016.
- 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 (14) and Paragraph (2) of Article (65) of the Implementing Regulations of the Value Added Tax Law, issued by Resolution of the Board of Directors of the General Authority of Zakat and Income -formerly- No. (3839) dated 14 Dhu al-Hijjah 1438 AH corresponding to 14 November 2016

Facts:

Facts of the case are summarized that ....., holder of National ID number (.....), in his own capacity, filed a statement of claim, challenging Defendant's decision regarding the final reassessment for the VAT period of Q1 2020, imposing fines for submission of incorrect tax return and late payment resulting from the reassessment. Therefore, Plaintiff seeks annulment of Defendant's decision along with the imposed fines.

Having presented the statement of claim to Defendant (ZATCA), Defendant answered as follows: In form, the decision has become final due to the expiration of the statutory objection period, in accordance with Paragraph (1) of Article (3) of Tax Dispute and Violation Committee Procedures, as the decision was issued on ../../..... First: Taxable Sales at the Standard Rate: Plaintiff submitted their tax return for the disputed tax periods, wherein they included the item under objection, based on Paragraph (1) of Article (26) of the Value Added Tax Law, as well as Paragraph (1) of Article (64) of its Implementing Regulations. Considering the provisions of Paragraph (2) of Article (56)

of the Implementing Regulations of the VAT Law and according to the data received from the Ministry of Justice, ZATCA referred to Plaintiff's Notary Public record with the Ministry of Justice and subjected these amounts to VAT in accordance with Article (14) of the Implementing Regulations of VAT Law. Second: Fines for Submission of Incorrect Tax Return and Late Payment: A fine for submission of incorrect tax return was imposed based on Paragraph (1) of Article (42) of the VAT Law. A late payment fine was imposed for the months following the disputed tax period, in accordance with Article (43) of the VAT Law. Defendant's representative concluded his memorandum by requesting case inadmissibility in form, and dismissal on merits. End of Answer.

On Monday, 04/04/2022, the session convened via video conference in accordance with the remote virtual litigation procedures, pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH. Having called parties to case, Plaintiff appeared in its own capacity, and Additionally, (...) Saudi National under National ID No. (...), attended in his capacity as ZATCA's Representative under Authorization Letter No. (.....), dated .../.../... AH issued by the Deputy Governor for Legal Affairs. Having asked the Plaintiff regarding his case, they responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming contents of the memorandum of reply. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Therefore, the Department decided to adjourn the session for deliberation and adjudication.

Grounds

Having taken cognizance of documents included in Case file, and perused the Common VAT Agreement of GCC States ratified by Royal Decree No. (M/51) dated 03/05/1438 AH, 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, Value Added Tax Law promulgated by Royal Decree No. (M/113) dated 02/11/1438 AH as amended, the Implementing Regulations of the Law issued by Board of Directors of the General Authority of Zakat and Income Decision No. (3839) dated 14/12/1438 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, the Department considered the Case:

In Form, Since Plaintiff filed this Case for the purpose of challenging the final reassessment results for the VAT period of Q1 2020, including the imposition of fines for submission of incorrect tax return and late payment, based on Value Added Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Income Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

Regarding the Defendant's argument that there is a procedural defect represented in the Plaintiff's failure to initially submit their objection before ZATCA prior to filing their lawsuit, it is responded that the Plaintiff attempted to submit an objection to the Defendant, but they conditioned the acceptance of the objection request on the provision of a financial guarantee. Upon reviewing paragraph (2) of Article (65) of the Implementing Regulations of the VAT Law, which states: "In cases where a formal review or appeal is lodged against an appealable decision, and the Authority has evidence or reason to doubt that the Taxable Person may not pay the disputed Tax, the Authority may require a cash security or bank guarantee from the Taxable Person up to a maximum value of the unpaid amount of Tax and associated penalties arising in connection with the decision. A notification requiring cash security or a bank guarantee shall be issued in writing". It turned out that the requirement for a financial guarantee, as per provisions of the mentioned paragraph, is an exception subject to several conditions, including the existence of a case of doubt, an upper limit

on the guarantee amount, and the requirement for the guarantee request to be in writing. This confirms that the legislator intended for the financial guarantee requirement in objection cases to be applied in limited circumstances, ensuring that Taxpayer does not lose the right to resort to litigation. After reviewing ZATCA's procedure in this matter, the Department found that ZATCA had expanded the requirement for a financial guarantee to apply to all cases of objections to reassessments, contrary to provisions of Paragraph (2) of Article (65) of the Implementing Regulations of the Law of Value Added Tax. Therefore, the Department overlooks ZATCA argument in this regard.

On merits, the Department, upon examination of the case documents and the responses of both parties after granting them sufficient time to present their arguments and evidence, established that Defendant issued its decision regarding the final reassessment for the VAT period of Q1 2020 and imposed fines for submission of incorrect tax return and late payment resulting from the reassessment. Plaintiff has objected to this decision, and the following has been determined:

First: Taxable Sales at the Standard Rate: The dispute arises from the local taxable sales item at the standard rate, due to Defendant increasing the reported amount by SAR 836,250, after reviewing Plaintiff's records with the Notary Public. Defendant's supporting document indicates that on 17/02/2020, Plaintiff sold Property No. (...), valued at SAR 836,250. Since Plaintiff did not provide any evidence to the contrary, and in accordance with Article (14) of the Implementing Regulations of the VAT Law, which states: "Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom." Accordingly, the Department deems it appropriate to uphold Defendant's position and affirms the validity of its final reassessment decision.

Second: Fine for Submission of Incorrect Tax Return: The Department concluded that Defendant's decision regarding the final reassessment of the tax period in question is valid, and since the fine under dispute is a result of and linked to this reassessment, it is evident that Plaintiff erred in submitting the tax return, pursuant to Paragraph (1) of Article (42) of the VAT Law, which states: "Any Person who files an incorrect Tax Return to ZATCA, amends a Tax Return after filing or files any document with ZATCA in relation to the Tax due by him which results in an error in the calculation of the Tax amount resulting in an amount that is less than the Tax due shall be liable to a fine equal to (50%) of the value of the difference between the calculated Tax and the Tax due". Accordingly, the Department upholds the validity of Defendant's decision to impose the fine.

Third: Late payment fine: The Department concluded that Defendant's decision regarding the final reassessment of the tax period in question is valid, and since the fine under dispute is a result of and linked to this reassessment, it is evident that Plaintiff delayed in paying the tax due within the statutory period, pursuant to Article (43) of the VAT Law, which states: "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid." Accordingly, the Department concludes by upholding the validity of the Defendant's procedure in imposing the fine.

In light of the foregoing, and after deliberation, the Department unanimously decided to:

Decision:

First: Accept case in form.

Second: Dismiss the 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.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Excise Tax

Committee for Determination of Tax Violations and Disputes
First Department to Adjudicate Excise Tax Violations and Disputes In Riyadh

Decision No.: ER-2022-115

Case No.: V-71483-2021

Key words:

Excise Tax – Tax Stamps – Field Inspection Fine – Annulment of Defendant's Decisions.

Abstract

Taxpayer seeks annulment of ZATCA's decision regarding the imposition of a fine for the absence of tax seals and requests annulment of Defendant's decision. It is established, based on the data and documents submitted in the case, that Defendant did not notify Plaintiff of the alleged violation in question or provide them with a copy of the field inspection report. Furthermore, it is evident to the Department that the field inspection report submitted by Defendant does not meet the statutory requirements for substantiating Plaintiff's alleged violation, as it lacks the signature of the violator or their representative. Therefore, the Department decided to cancel Defendant decision.

Documents:

- Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 21/04/1441 AH
- Excise Tax Law promulgated by Royal Decree No. (M/86) dated 27/08/1438 AH and its amendments
- 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 of the Excise Tax Law issued by Decision No. (19-3-2) of the Board of Directors of GAZT, dated 10/09/1440 AH and its amendments.

Facts

Facts of this case are summarized that Plaintiff (....), holder of National ID No. (...), in his capacity as the owner of (....) Establishment, CR No. (....), filed a statement of claim contesting the decision of Defendant, ZATCA, regarding the imposition of a fine for the absence of tax seals, and requested the annulment of Defendant's decision.

Upon addressing Defendant for a response to the claims stated in Plaintiff's statement of claim, Defendant submitted a memorandum of reply to the General Secretariat of the Zakat, Tax, and Customs Committees, which included the following: We respectfully inform the honorable committee that Plaintiff failed to raise an objection with ZATCA in accordance with Tax Dispute and Violation Committee Procedures. Paragraph (1) of Article (3) thereof states: "GAZT's decisions shall be final and unappealable before any other agency in the following cases: 1. If a Taxpayer does not object to the decision within 60 days from the date of notification thereof." Since ZATCA's decision to impose the relevant fine was issued on 14/10/2020 and Plaintiff did not file an objection within the aforementioned statutory period, the contested decision thus

becomes final due to the lapse of the objection period, in accordance with Paragraph (1) of Article (3) of Tax Dispute and Violation Committee Procedures.

On Sunday, 10/04/2022, the First Department to Adjudicate Excise Goods Tax Violations and Disputes in Riyadh, held its first session via video conference according to remote virtual litigation procedures at 9:00 PM, based on Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH to consider the case filed by Plaintiff against Defendant. When Parties to case were called, (.....), National ID No.: (...) appeared as Plaintiff, and (....), while (.....), a Saudi national under National ID No. (....), attended as Defendant's representative under Authorization Letter No. (...) dated ../ ../.... issued by Deputy Governor for Legal Affairs. Plaintiff, upon questioning regarding their case, responded in accordance with the statement of claim submitted to the General Secretariat of the Zakat, Tax, and Customs Committees, affirming the arguments therein and further stated that they were not notified of the decision in question. When questioned regarding his response, Defendant's representative affirmed reliance on the arguments presented in the memorandum of reply filed in the case records. Additionally, the representative requested a grace period to submit evidence substantiating that Plaintiff had been duly notified of the decision in question. Accordingly, the Department decided to adjourn further consideration of the case to the session scheduled for 15/05/2022 at 5:00 PM.

On Sunday, 15/05/2022, the First Department to Adjudicate Excise Goods Tax Violations and Disputes in Riyadh, held its second session via video conference according to remote virtual litigation procedures at 9:00 PM, based on Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH to consider the case filed by Plaintiff against Defendant. When Parties to case were called, (.....), National ID No.: (...) appeared as Plaintiff, and (....), while (.....), a Saudi national under National ID No. (....), attended as Defendant's representative under Authorization Letter No. (...) dated ../ /.. /.. issued by Deputy Governor for Legal Affairs. Defendant's representative, at the beginning of the session, submitted certain documents purporting to demonstrate that Plaintiff had been duly notified of the decision in question. However, upon reviewing the submitted documents, the Department found no evidence proving that Plaintiff was notified of the decision on 14/10/2020. Consequently, the Department requested Defendant's representative to provide Plaintiff with a copy of the violation inspection report, as well as a copy of the violation notice, no later than 22/05/2022, provided that Plaintiff respond to Defendant's submission in the next session. Accordingly, the Department decided to adjourn further consideration of the case to the session scheduled for 12/06/2022 at 5:00 PM.

On Sunday, 12/06/2022, the First Department to Adjudicate Excise Goods Tax Violations and Disputes in Riyadh, held its third session via video conference according to remote virtual litigation procedures at 5:00 PM, based on Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH to consider the case filed by Plaintiff against Defendant. When Parties to case were called, (.....), National ID No.: (...) appeared as Plaintiff, and (....), while (.....), a Saudi national under National ID No. (....), attended as Defendant's representative under Authorization Letter No. (...) dated ../ /.. /.. issued by the Deputy Governor for Legal Affairs. When asked concerning their case, Plaintiff responded in accordance with the statement of claim submitted to the General Secretariat of the Zakat, Tax, and Customs Committees, affirming the arguments therein and further added that the violation inspection report did not contain the seller's signature, and that the annotations appearing on the report could not sufficiently establish that they pertained to the employee in question. When questioned regarding his response, Defendant's representative affirmed reliance on the arguments presented in the memorandum of reply filed in the case records. The representative further stated that, according to standard violation reporting procedures, the signature of the violator or the person present at the violation site should be obtained; however, such person cannot be compelled to sign. Having asked the parties to the case if they had any other statements, they decided to

suffice with their earlier submissions. Accordingly, the Department decided to close pleading and adjourn session for deliberation before issuing decision.

Grounds

Having reviewed the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH , as amended, and its Implementing Regulations issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH , as amended, Excise Tax Law promulgated by Royal Decree No. (M/86) dated 27/08/1438 AH , as amended, the Implementing Regulations of the Law issued by the Decision of Board of Directors of General Authority of Zakat and Income (currently ZATCA) No. (19-3-2) dated 10/09/1440 AH , as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, and the relevant laws, regulations, and decisions.

In form, Since Plaintiff filed its case to annul Defendant's decision imposing a fine for the absence of tax stamps, based on Excise Tax Law and its Implementing Regulations, and since this dispute is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Excise Goods 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 Defendant failed to provide evidence substantiating that Plaintiff was duly notified of the decision in question, despite being granted an extension to submit such proof, it is therefore accepted in form.

On merits, the Department, upon examining the case file and considering the requests, defenses, and pleas presented by both parties, finds that the dispute revolves around Plaintiff's objection to Defendant's decision imposing a field inspection fine for the absence of tax stamps on excise goods. It is established, based on the data and documents submitted in the case, that Defendant did not notify Plaintiff of the alleged violation in question or provide them with a copy of the field inspection report. Furthermore, it is evident to the Department that the field inspection report submitted by Defendant does not meet the statutory requirements for substantiating Plaintiff's alleged violation, as it lacks the signature of the violator or their representative, thereby constituting a breach of the statutory violation reporting procedures. Since Plaintiff denies the validity of the reported violation at their business premise, the Department finds that the procedures employed by Defendant in recording the relevant violation lacked proper legal foundation and must therefore be dismissed.

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

Decision

First: Accept case in form.

Second: Annul Defendant's (ZATCA) decision issued against (…), holder of National ID No. (....).

The decision was made in presence of both parties, and the Department has allocated thirty days for receipt of decision copy. The Department may extend this period by an additional thirty days if necessary. According to Article (42) of the Rules of Tax Dispute and Violation Committee Procedures, this decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Committee for Determination of Tax Violations and Disputes
First Department to Adjudicate Excise Tax Violations and Disputes In Riyadh

Decision No.: ER-2022-132

Case No.: E-83599-2021

Key words:
Excise Tax – Absence of Tax Stamps – Case Dismissal.

Abstract

Taxpayer requests annulment of ZATCA's decision regarding the imposition of a fine for the absence of tax stamps. However, the Department, based on the images and documents submitted by Defendant, established that the product presented by Taxpayer did not bear the required tax stamps. Furthermore, Taxpayer did not deny the violation but rather claimed ignorance and lack of prior notice of the violation. Therefore, the Department ruled to dismiss the Taxpayer's case.

Documents:

- Excise Tax Law promulgated by Royal Decree No. (M/86) dated 27/08/1438 AH and its amendments
- 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 (3) of Article (9) of the Implementing Regulations of the Excise Tax Law issued by Decision No. (19-3-2) of the Board of Directors of GAZT, dated 10/09/1440 AH and its amendments.

Facts

Facts of this case are summarized that ....., holder of National ID No. (.....), owner of (....) Establishment, CR No. (...), filed a statement of claim challenging Defendant's (ZATCA) decision regarding the imposition of a fine for the absence of tax stamps. Therefore, Plaintiff requests annulment of Defendant's decision.

When presenting statement of claims to Defendant, it submitted a Reply summarizing the following points: "First: On merits: Upon reviewing Plaintiff's statement of claim, it turned out that its Clauses are as follows: 1. ZATCA, regarding the fine for the absence of tax stamps, summarizes its response as follows: 1. ZATCA's representatives, on 04/11/2021, conducted an on-site inspection of Plaintiff's premises and examined the simplified invoices issued during the field campaign to verify compliance with the Excise Tax Law and its Implementing Regulations. Upon inspection, it was found that Plaintiff's invoices violated the simplified invoice requirements outlined in Paragraph (1) of Article (9) of the Implementing Regulations of the Excise Tax Law, which states: "1. Valid Tax Stamps shall be affixed to the designated Excise Goods, and shall be activated prior to releasing for consumption in the Kingdom. The Authority shall determine the procedures for activation and verification of validity of Tax Stamps." (Attached). 2. ZATCA, upon confirming Plaintiff's violation of the provisions of the Excise Tax Law and its Implementing Regulations as outlined above, imposed a fine of SAR 10,000 on Plaintiff, pursuant to Paragraph (3) of Article (23) of the Excise Tax Law, which states: "A fine not exceeding fifty thousand (50,000) riyals shall be imposed on any Person that: 3. violates any other provision of the Law or

the Regulations". Second: Requests: Based on the above, ZATCA requests the Honorable Committee to dismiss the case for the reasons stated above and to confirm ZATCA's decision. ZATCA reserves the right to provide further responses and clarifications until pleadings closing.
On Wednesday, 24/08/2022, The First Department to Adjudicate Excise Goods Tax Violations and Disputes in Riyadh convened a session via video conferencing at 5:00 PM, in accordance with the remote virtual litigation procedures; pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) and dated 21/04/1441 AH to consider the Case filed by Plaintiff against Defendant, and upon calling the parties to the Case, no one representing Plaintiff was present despite being duly notified of the session date, and (....), a Saudi national under National ID No. (....), attended as Defendant's representative under Authorization Letter No. (...) dated ../ /.. /.... Issued by the Deputy Governor for Legal Affairs, and upon asking Defendant's representative for a response, he stated that he stands by the memorandum of reply submitted in case file and asserts case validity for adjudication according to Article (20) of Tax Dispute and Violation Committee Procedures. Consequently, the Department decided to close the pleadings and adjourn the session for deliberation in preparation for issuing the decision.

Grounds

Having reviewed the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH , as amended, and its Implementing Regulations issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH , as amended, Excise Tax Law promulgated by Royal Decree No. (M/86) dated 27/08/1438 AH , as amended, the Implementing Regulations
of the Law issued by the Decision of Board of Directors of General Authority of Zakat and Income (currently ZATCA) No. (19-3-2) dated 10/09/1440 AH , as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, and the relevant laws and regulations.
In form, Since Plaintiff filed its case to annul Defendant's decision imposing a fine for the absence of tax stamps, based on Excise Tax Law and its Implementing Regulations, and since this dispute is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Excise Goods Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a person, and within the period prescribed by law, it is therefore accepted in form.
On merits, the Department, upon examining the case file and considering the requests, defenses, and pleas presented by both parties, finds that the dispute revolves around Plaintiff's objection to Defendant's decision imposing a fine for the absence of tax stamps. The Department, based on the images and documents submitted by Defendant, established that the product presented by Plaintiff did not bear the required tax stamps. Furthermore, Plaintiff did not deny the violation but rather claimed ignorance and lack of prior notice of the violation, thereby establishing Plaintiff's violation of Paragraph (3) of Article (9) of the Implementing Regulations of the Excise Tax Law, which clarifies that the party responsible for affixing and activating tax stamps on designated excise goods is the registrant who offers or intends to offer such goods for consumption in the Kingdom. Therefore, the Department establishes Plaintiff's violation of the law.
For the aforementioned grounds, the Department unanimously decided as follows:

Decision

First: Accept case in form.
Second: To dismiss Plaintiff case.
This decision was delivered in presence of Parties as a final and enforceable under Tax Dispute and Violation Committee Procedures. Date of uploading decision to the e-system of the General Secretariat of Zakat, Tax and Customs Committees shall be deemed the date of decision delivery.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Committee for Determination of Tax Violations and Disputes
First Department to Adjudicate Excise Tax Violations and Disputes In Riyadh

Decision No.: ER-2022-135

Case No.: E-83199-2021

Key words:
Excise Tax – Absence of Tax Stamps – Cigarettes – Case Dismissal.

Abstract

Taxpayer seeks annulment of ZATCA's decision imposing a fine for the absence of tax stamps. However, Taxpayer did not deny the violation but instead claimed that the supplier engaged in commercial fraud, without providing purchase invoices or disclosing the supplier's name. Taxpayer's representative further requested that only a warning be deemed sufficient as a penalty, given their client's ignorance of the regulations. However, the Department finds that the argument of ignorance of the law, as presented by Taxpayer's representative during the session, does not constitute a valid legal argument in the case. Therefore, the Department ruled to dismiss the Taxpayer's case.

Documents:

- Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 21/04/1441 AH
- Excise Tax Law promulgated by Royal Decree No. (M/86) dated 27/08/1438 AH and its amendments
- 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 (9) of the Implementing Regulations of the Excise Tax Law issued by Decision No. (19-3-2) of the Board of Directors of GAZT, dated 10/09/1440 AH and its amendments.

Facts

Facts of this case are summarized that (....), holder of National ID No. (...), acting as Plaintiff' representative (…), holder of National ID No. (…), as the legal representative of (…) Company (Single-Person Company), CR No. (...), under PoA No. (....), filed a statement of claim challenging ZATCA's Decision No. (....) dated 06/10/2021 imposing a fine for the absence of tax stamps. Furthermore, Plaintiff requested annulment of Defendant's decision.

When presenting statement of claims to Defendant, it submitted a Reply summarizing the following points: "On merits: Having reviewed Plaintiff statement of claims, it was found that its claims related to a field detection fine for absence of tax stamps on some of excise goods that Plaintiff sells. Accordingly, ZATCA hereby replies as follows: 1. ZATCA's representatives conducted an on-site inspection of Plaintiff's premises and examined the products offered for sale during the field campaign to verify compliance with the Excise Tax Law and its Implementing Regulations. Upon inspection, Plaintiff was found to be in violation of Article (9) of the

Implementing Regulations of the Excise Tax Law, which states "Valid Tax Stamps shall be affixed to the designated Excise Goods, and shall be activated prior to releasing for consumption in the Kingdom.... ". The inspection revealed that the seized products (regular cigarettes) in Plaintiff's possession lacked the required tax stamps. (Attached). 2. ZATCA, upon confirming Plaintiff's violation of the provisions of the Excise Tax Law and its Implementing Regulations as outlined above, imposed a fine of SAR 10,000 on Plaintiff, pursuant to Paragraph (3) of Article (23) of the Excise Tax Law, which states: "A fine not exceeding fifty thousand (50,000) riyals shall be imposed on any Person that violates any other provision of the law or its regulations." Third: Requests: Based on the foregoing, ZATCA respectfully requests the Honorable Committee to: 1. Rule for the dismissal of the case for the reasons stated above and, as a precautionary measure, uphold ZATCA's action in question. ZATCA reserves the right to provide further responses and clarifications until pleadings closing."

On Wednesday, 24/08/2022, the First Department to Adjudicate Excise Goods Tax Violations and Disputes in Riyadh, held its first session via video conference according to remote virtual litigation procedures at 5:20 PM, based on Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH to consider case filed by Plaintiff against Defendant. Having called parties to case, Plaintiff's representative, (.....), a Saudi national under National ID No. (...), under PoA No. (...) attended, as well as (.....), a Saudi national under National ID No. (....), attended as Defendant's representative under Authorization Letter No. (...) dated 17/08/1442 AH issued by the Deputy Governor for Legal Affairs. Having asked Plaintiff's representative regarding their case, they responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming contents of the memorandum of reply and further requested that only a warning be deemed sufficient as a penalty, given their client's ignorance of the regulations. When questioned regarding his response, Defendant's representative affirmed reliance on the arguments presented in the memorandum of reply filed in the case records. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Accordingly, the Department decided to close pleading and adjourn session for deliberation before issuing decision.

Grounds

Having reviewed the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH , as amended, Excise Tax Law promulgated by Royal Decree No. (M/86) dated 27/08/1438 AH , as amended, the Implementing Regulations of the Law issued by the Decision of Board of Directors of General Authority of Zakat and Income (currently ZATCA) No. (19-3-2) dated 10/09/1440 AH , as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, and the relevant laws and regulations.

Since Plaintiff filed its case to request that Defendant decision be canceled based on Excise Tax Law and its Implementing Regulations, and since this dispute is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Excise Goods 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, the Department, upon examining the case file and considering the requests, defenses, and pleas presented by both parties, finds that the dispute revolves around Plaintiff's objection to Defendant's decision imposing a fine for the absence of tax stamps. Whereas, Plaintiff did not deny the violation but instead claimed that the supplier engaged in commercial fraud, without providing purchase invoices or disclosing the supplier's name. whereas, Plaintiff's representative requested that only a warning be deemed sufficient as a penalty, given their client's ignorance of the regulations. The Department, upon reviewing the case file, demonstrated that Plaintiff violated Paragraph (3) of Article (9) of the Implementing Regulations of the Excise Tax Law, which clarifies

that the party responsible for affixing and activating tax stamps on designated excise goods is the registrant who offers or intends to offer such goods for consumption in the Kingdom. Moreover, the Department finds that the argument of ignorance of the law, as presented by Plaintiff's representative during the session, does not constitute a valid legal argument in the case. Therefore, the Department establishes Plaintiff's violation of the law.

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

Decision

First: Accept case in form.

Second: To dismiss Plaintiff case.

This decision was delivered in presence of Parties as a final and enforceable under Tax Dispute and Violation Committee Procedures. Date of uploading decision to the e-system of the General Secretariat of Zakat, Tax and Customs Committees shall be deemed the date of decision delivery.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Committee for Determination of Tax Violations and Disputes
First Department to Adjudicate Excise Tax Violations and Disputes In Riyadh

Decision No.: ER -2022-19

Case No.: E-53864-2021

Key words:
Excise Tax – Tax Calculation Basis – Retail Price – Late Payment Fine – Standard Price List – Import Declaration – Tax Return.

Abstract

Taxpayer seeks annulment of ZATCA's decision regarding the second and third tax periods of 2018, the second, third, fourth, and sixth tax periods of 2019, and the first and second tax periods of 2020, due to the failure to impose tax based on retail selling prices and the existence of outstanding excise tax differences. The Department established that the excise goods were cleared by the Saudi Customs based on complete and duly submitted invoices. At the time of clearance, the Saudi Customs did not express any reservations or concerns regarding the validity of these documents, nor did it present any evidence of misrepresentation by Plaintiff. Furthermore, neither the Saudi Customs nor Defendant provided any prior indication of doubt regarding the accuracy of the retail price before the goods were cleared. It was also established that Plaintiff declared the retail prices of the imported excise goods based on the retail sale prices as stipulated by the provisions of the agreement, the Law, and its Implementing Regulations. Therefore, the Department decided to annul Defendant's decisions.

Documents:

- Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 21/04/1441 AH
- Excise Tax Law promulgated by Royal Decree No. (M/86) dated 27/08/1438 AH and its amendments
- Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH
- Paragraph (2) of Article (6) of the Common VAT Agreement of GCC States, November 2016.
- Article (1) and Paragraph (4) of Article (17) of the Implementing Regulations of the Excise Tax Law issued by Decision No. (19-3-2) of the Board of Directors of GAZT, dated 10/09/1440 AH and its amendments.

Facts

The facts of this case are summed up in that Mr....., holder of National ID No. (....), in its capacity as owner of (....) Est., CR No. (...), filed a statement of claim contesting ZATCA's decision regarding the second and third tax periods of 2018, the second, third, fourth, and sixth tax periods of 2019, and the first and second tax periods of 2020 under a statement of claim, summarized as follows: ZATCA will not issue a further assessment notice due to the validity of the measure taken in accordance with Article (8) and Article (17) of the Implementing Regulations of the Excise Tax Law. Please note that we have not committed any violation of the provisions stated in the such Regulations under Article (8) and Article (17). Furthermore, according to Article (8), which

stipulates the retail sale price specified in the Customs Law, we were not requested to determine any retail sale price, nor do we bear any responsibility in the event of any errors in the systems of the Saudi Customs or GAZT. The specified price has been declared in the customs system based on the agreement between GAZT and the Saudi Customs. Additionally, there is an electronic announcement on GAZT's website regarding the Common VAT Agreement of GCC States, along with the Excise Goods Tax Guide published on May 26, 2017, under the Importers' Section, which states the following: "Importers at this stage are required to pay the excise tax on goods for each customs at the Saudi Customs. ZATCA, at the end of the period (two months), reviews the accuracy of the tax calculation for the customs declarations within that period and demands any differences from importers, if applicable." However, in our case, the differences were reviewed with us three years later, and we were notified of discrepancies. Had ZATCA conducted the review within the announced two-month period (as stated on their website), we would not have continued importing excise goods and incurred losses. Furthermore, during the import period, we were not notified by our account manager at the General Authority of Zakat and Tax (GAZT) of any discrepancies, demonstrating that our operations were compliant and free of errors. Our response to Article (17) of the Implementing Regulations of the Excise Goods Tax, specifically regarding Paragraph (1) of Article (17), is that I am in compliance with the following requirements: 1. We have fully complied with the import declaration requirements and have never submitted any incorrect import declarations. The excise tax was duly paid prior to the goods entering the country under the customs clearance invoice issued by 'Fasah' system. 2. We have never filed any incorrect excise tax return. 3. We hold a prior registration for excise tax. In response to Paragraph (2) of Article (17): The importation process was conducted through Fasah system managed by the Saudi Customs, and we were never requested to provide any calculation basis or retail selling price. These systems are legislated by the Saudi Customs and GAZT. Response to Paragraph (3) of Article (17): We were never notified of any outstanding tax liability. Instead, we were informed of a discrepancy due to an error in the Customs' system—an error for which we bear no responsibility. Our position can be verified by referring to the Saudi Customs Authority. Furthermore, we would like to emphasize the following: 1. We were notified of the discrepancy assessment results via email only. Our operational workflow is as follows: We sell at wholesale prices by the carton, not per unit. Purchases are made from the manufacturer at export prices according to our specific specifications, which include 300ml packaging per unit. All duties and taxes, including VAT, excise tax, customs duties, and clearance fees, are paid to the Saudi Customs through Fasah system. Goods, upon arrival at our warehouse, are fully costed, including duties, taxes, customs fees, transportation, loading, and unloading, followed by a 5% profit margin (standard for food category markups). Consequently, we object to the discrepancy assessment issued by GAZT, which was communicated solely via email, and hereby request the annulment of Defendant's decision.

When presenting statement of claims to Defendant, it submitted a Reply summarizing the following points: Based on paragraph (1) of Article (17) of the regulations, which states: "The Authority shall calculate the Tax Due amount on the Excise Goods, in accordance with the provisions of the Regulations; if the person liable for the payment of the Tax due: A- Fails to comply with the conditions to file an import declaration or submitted an incorrect import declaration ..." Paragraph (2) of the aforementioned article stipulates: "For the purposes of this Article, an incorrect import declaration or Excise Tax Return shall mean any import declaration or Excise Tax Return which has led to an incorrect calculation of the Tax Due.", it was found that there were excise tax differences that were not paid upon import, as the excise tax was not imposed based on the retail price of goods, which violates the Implementing Regulations of Excise Tax Law, and the provisions of the agreement. Definition of "Tax Base" in Article 1 of Regulations is "The value of Excise Good on which Tax is imposed, equals to the retail sales price determined by the importer or producer, or the standard price agreed on these goods in accordance with the Agreement, whichever is higher; exclusive of Tax due and VAT". Also, Article (8.3) of the Implementing Regulations of Excise Tax Law stipulates "If no or insufficient evidence is provided

in accordance with the second (2) paragraph of this Article, or if Authority or the Saudi Customs has reasonable doubt with respect to the validity of the declared retail sales price, the Authority or Saudi Customs shall have the right to reject such prices and determine the correct price to be used for calculating the Tax Due, in accordance with the provisions of the Regulations." Whereas Plaintiff failed to comply with the requirements for submitting the excise tax return and submitted an incorrect return, resulting in erroneous calculation of the excise tax, this constitutes a violation of Article (17) of the Implementing Regulations of the Excise Tax Law. Accordingly, ZATCA maintains the validity of its procedures in imposing the excise tax and requests dismissal of Plaintiff's case.

Plaintiff, upon presenting the memorandum of reply, submitted a memorandum, summarized as follows: "In response to the reliance placed on Paragraphs (1-2) of Article (17), no violation of these provisions has been committed. As an importer, I am not authorized to submit any tax return to ZATCA, or was I notified of any approved retail price list at the Saudi Customs."

On Sunday, 06/02/2022, the First Department to Adjudicate Excise Goods Tax Violations and Disputes in Riyadh, held its first session via video conference according to remote virtual litigation procedures at 5:00PM, based on Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH to consider the case filed by Plaintiff against Defendant. When Parties to case were called, (.....), holder of National ID No. (...), in his capacity as the owner of the establishment, as evidenced by the attached commercial registration, and (....), holder of National ID No. (...) appeared under Authorization Letter No. (...), dated (.....) issued by the Deputy Governor for Legal Affairs. Having asked Plaintiff regarding their case, they responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming contents included therein. Upon questioning Defendant's representative regarding his response, he affirmed adherence to the contents of the memorandum of reply. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions.

Accordingly, the Department decided to close pleading and adjourn session for deliberation before issuing decision.

Grounds

Having reviewed the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH , as amended, Excise Tax Law promulgated by Royal Decree No. (M/86) dated 27/08/1438 AH , as amended, the Implementing Regulations of the Law issued by the Decision of Board of Directors of General Authority of Zakat and Income (currently ZATCA) No. (19-3-2) dated 10/09/1440 AH , as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, and the relevant laws and regulations.

In form, since Plaintiff seeks annulment of Defendant's decision regarding the second and third tax periods of 2018, the second, third, fourth, and sixth tax periods of 2019, and the first and second tax periods of 2020, based on Excise Tax Law and its Implementing Regulations, and since this is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Excise Goods Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a person having capacity, and within the period prescribed by law, it is therefore accepted in form.

On merits, the Department, upon examining the case file and considering the requests, defenses, and pleas presented by both parties, finds that the dispute revolves around Plaintiff's objection to Defendant's decision regarding the second and third tax periods of 2018, the second, third, fourth, and sixth tax periods of 2019, and the first and second tax periods of 2020, due to the failure to impose the excise tax on retail selling prices and the existence of alleged outstanding tax differences. The Department, upon reviewing the case file and the documents submitted by

Plaintiff notes the following: The tax base, pursuant to Article (1) of the Implementing Regulations of the Excise Tax Law, is defined as "The value of Excise Good on which Tax is imposed, equals to the retail sales price determined by the importer or producer, or the standard price agreed on these goods in accordance with the Agreement, whichever is higher; exclusive of Tax due and VAT". Additionally, Paragraph (2) of Article (6) of the Common Excise Tax Agreement of GCC States provides "The taxable value for other excise goods shall be determined based on their retail selling price, provided that the retail selling price is either the price set by the importer or producer of the excise goods or the standard price list periodically agreed upon by the tax authorities of the GCC member states—whichever is higher." The Department established, based on the case file, that Plaintiff's goods were legally customs-cleared after submitting all required documents, with no evidence presented by Defendant proving any misrepresentation in Plaintiff's customs declarations. Moreover, there was no reservation or notification received from the Saudi Customs regarding any issues with the goods at the time of importation. The Department also finds that Defendant's claim for alleged tax differences arose after a considerable period, as argued by Plaintiff. Defendant failed to provide evidence supporting its right under applicable laws and regulations to retroactively claim the alleged tax differences, without providing proof of the validity of this retroactive claim, without substantiating the accuracy of these tax differences, and without demonstrating any errors in the invoices and records submitted by Plaintiff to the competent customs officer during the clearance of goods for the tax periods in question. Additionally, Defendant did not demonstrate the existence of outstanding tax differences as claimed, based on the difference between the retail price and the standard price used by Defendant. Given the established legal principle that "Onus of proof rests on the claimant" and the jurisprudential rule "There should he neither harming nor reciprocating harm", retroactively demanding payment from Plaintiff without legal basis after a prolonged period could result in undue harm to Plaintiff —a practice unsupported by relevant regulations. As for Defendant's argument that it has the right to reject Plaintiff's declared retail price and impose the tax based on the standard reference price under Article (8) of the Regulations in cases where the price specified by Plaintiff is inconsistent with the standard price—upon reviewing Article (8) of the Implementing Regulations, the Department observes it stipulates "2. Upon the request of the Authority or the Saudi Customs, the person liable for the payment of the Tax Due shall provide an evidence substantiating the validity of declared Retail Sales Price. 3. If no or insufficient evidence is provided in accordance with the second (2) paragraph of this Article, or if the Authority or the Saudi Customs has reasonable doubt with respect to the validity of the declared retail sales price, the Authority or Saudi Customs shall have the right to reject such prices and determine the correct price to be used for calculating the Tax Due, in accordance with the provisions of the Regulations." It has been established to the Department, based on the evidence presented by Plaintiff, that the excise goods were cleared by the Saudi Customs upon submission of complete and valid invoices. At the time of clearance, the Saudi Customs did not express any reservations or doubts regarding the authenticity of these documents, nor did they provide any evidence of misrepresentation by Plaintiff. Furthermore, neither the Saudi Customs nor Defendant provided any prior indication, before the clearance of the goods, that they had concerns about the accuracy of the declared retail price. Plaintiff had submitted the retail prices for the imported excise goods in accordance with the provisions of the Agreement, the Law, and the Regulations. It has also been established to the Department that the purpose of Article (8) of the Implementing Regulations is to grant Defendant the right to exercise its authority at the time of submission of the relevant documents—not retroactively after the clearance of goods—without notifying Plaintiff of any doubts regarding the accuracy of the declared retail price. This interpretation aligns with the final provision of Paragraph (2) of Article (8) of the Implementing Regulations, which states "...the Authority or Saudi Customs shall have the right to reject such prices and determine the correct price to be used for calculating the Tax Due, in accordance with the provisions of the Regulations." Accordingly, Defendant's action lacks a valid legal basis and must be dismissed.

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

Decision

First: Accept case in form.
Second: Annul Defendant's (ZATCA) decision against Plaintiff/ ..., owner of (....) Est., C. R. No. (...) Subject of the case.
This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Appellate Committee:

Appeal Committee ruled to uphold the decision.

Committee for Determination of Tax Violations and Disputes
First Department to Adjudicate Excise Tax Violations and Disputes In Riyadh

Decision No.: ER- 2022- 20

Case No.: E-75082-2021

Key words:

Excise Tax – Basis for Calculating Tax Due – Late Payment – Annulment of Defendant's Decisions.

Abstract

Taxpayer seeks annulment of ZATCA's decision imposing excise tax, as well as the cancellation of registration and related amendments, and the waiver of the tax difference. The dispute arises from Plaintiff's objection to Defendant's decision regarding the tax period for January and February 2020 and the associated fines, specifically in relation to the amendment of Plaintiff's tax return without providing the basis used to determine the retail selling prices of excise goods. Plaintiff, regarding the basis for calculating the due tax, objects to the failure to be provided with the standard price list agreed upon among the tax authorities in the GCC countries for reference when determining the retail selling price of their products or being permitted to set the retail selling price of their products. Defendant, in response, claims to have provided Plaintiff with the calculation method and the prices used via email. However, the Department, based on the documents submitted in the case, finds no evidence that Defendant furnished Plaintiff with the bases used in calculating the due tax amount. Therefore, the Department ruled to annul ZATCA's decision.

Documents:

- Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 21/04/1441 AH
- Excise Tax Law promulgated by Royal Decree No. (M/86) dated 27/08/1438 AH and its amendments
- Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH
- Article (1) and Paragraph (4) of Article (17) of the Implementing Regulations of the Excise Tax Law issued by Decision No. (19-3-2) of the Board of Directors of GAZT, dated 10/09/1440 AH and its amendments.
- Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. (1535) of 11/06/1425 AH
- Paragraph (2) of Article (6) of the Common Excise Tax Agreement of GCC States.

Facts

Facts of the case are summarized that ....., holder of National ID No. (.....), appeared in his capacity as Plaintiff's representative under PoA No. (....), submitted a statement of claim challenging ZATCA's decision regarding the tax period for January and February 2020 and the fines imposed thereon, as outlined in the statement of claim, which is summarized as follows: "ZATCA issued a notification of the amended tax return invoice and assessment for the tax period of January and February 2020, pursuant to Notification and Assessment No. (MOB-) dated 20/04/2021. The assessment indicated that the net payable tax amounted to SAR (125,619.12),

while the payable fines totaled SAR (87,933.38). The company hereby submits its objection before your committee based on the following: The company, regarding ZATCA's calculation method of the retail selling prices of excise goods, objects to ZATCA's failure to provide it with the method used to calculate the retail selling prices of its excise goods. This objection is based on Paragraph (4) of Article (17) of the implementing Regulations of the Excise Tax Law, which states: "The written notification shall include the grounds, on which the Authority calculates the amount of the Tax Due". Accordingly, ZATCA, in its issued assessment, has violated the provisions of Article (17) of the Regulations by failing to specify how retail selling prices were determined, which resulted in additional tax liabilities and associated fines. Furthermore, we would like to highlight the provisions of Paragraph (1) of Article (8) of the Regulations, which states the following: "The Retail Sales Price shall be determined, in accordance with the provisions of the Agreement". Moreover, Paragraph (2) of Article (6) of the Common Excise Tax Agreement of GCC States stipulates: "The value on which the tax is imposed on other excise goods shall be determined based on the retail selling price of these goods, provided that the retail selling price shall be the price determined by the importer or producer of the excise goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher". Accordingly, we would like to point out that the prices determined by ZATCA do not comply with the provisions stated above, as follows: 1. The retail selling prices are not based on the prices set by the importer or producer of the excise goods (i.e., the company in this case). 2. The standard price list agreed upon among the tax authorities in the GCC member states was not shared, which could have been used as a reference in determining prices. The company respectfully requests your esteemed committee to accept this appeal and grant access to the standard price list agreed upon by the tax authorities in the GCC member states for reference in determining the retail selling price of its products, or allow the company to determine the retail selling price of its products, using invoices issued by major retail stores, such as supermarkets or grocery stores. In addition to the foregoing, the company requests the full nullification of the tax and related fines, at least until an agreement on the retail selling prices of its products is reached for the disputed tax period in question. Second: Fines: The company formally objects to the late payment fine imposed by ZATCA. According to the payment invoice issued by ZATCA, a late payment fine of SAR (87,933.38) was calculated based on the tax amount stated in the invoice. Accordingly, the company contests this fine and requests its full nullification for the following reasons: The company fundamentally disputes the tax assessment itself; therefore, the tax obligation and all related fines should be annulled. Furthermore, ZATCA must specify the due date for tax payment in its issued assessment notice, and no late payment fine should be imposed before the expiration of the prescribed payment due date, pursuant to the following legal provisions: This unequivocally demonstrates a distinction between the tax due for the tax period declared by the taxpayer in their periodic self-assessment for each tax period—where the taxpayer has full knowledge of their tax liability since they voluntarily report it—and the tax due as determined through an assessment issued by ZATCA. The due date for payment is clearly specified before the date indicated in the assessment notice. Since the assessed taxpayer was unaware of the tax liability prior to the issuance of the assessment, they were not required to self-declare this tax before receiving ZATCA's assessment notification. Based on the foregoing, the company objects to the calculation and imposition of the late payment fine and the failure to specify a payment deadline within the assessment itself, as this contravenes the aforementioned legal provisions. The company hereby requests the complete nullification of the late payment fine amounting to SAR (87,933.38).

When presenting statement of claims to Defendant, it submitted a Reply summarizing the following points: "Upon reviewing Plaintiff's statement of claim, it is evident that the objections are limited to the assessment issued by ZATCA for the aforementioned tax periods, ZATCA's failure to provide Plaintiff with the methodology used to calculate the retail selling price, and the request for the nullification of the late payment fine. Accordingly, ZATCA summarizes its

response as follows: First: With regard to the calculation of the retail selling price: ZATCA, upon reviewing Plaintiff's statement that ZATCA did not provide them with the method for calculating the retail selling prices of the company's excise goods, confirms that it did, in fact, provide Plaintiff with the calculation method and the prices used via email. Regarding the discrepancies in the calculation of prices for products subject to excise tax, Plaintiff submitted multiple disclosures of the prices of products subject to the excise tax. Given that Plaintiff failed to clarify the reasons for the price changes or provide supporting invoices and dates, ZATCA calculated the prices of certain products based on the highest price provided by Plaintiff, using the highest price for each product, based on Paragraph (1) of Article (6) of the Common Excise Tax Agreement of GCC States, which provides "The value on which the tax is imposed on other excise goods shall be determined based on the retail selling price of these goods, provided that the retail selling price shall be the price determined by the importer or producer of the excise goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher" and Article (8) of the Implementing Regulations of the Excise Tax Law. Second: Regarding late payment fine: A late payment fine was imposed for the aforementioned tax periods, due to the outcome of the assessment process. Article (22) of the Excise Tax Law stipulates "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid". Accordingly, ZATCA upholds the validity of its decision issued against Plaintiff and the resulting fines."

Plaintiff, upon presenting Defendant's response, submitted a memorandum, summarized as follows: The company objects to ZATCA's failure to provide it with the method used to calculate the retail selling prices of its excise goods. This objection is based on Paragraph (4) of Article (17) of the implementing Regulations of the Excise Tax Law, which states: "The written notification shall include the grounds, on which the Authority calculates the amount of the Tax Due". Accordingly, ZATCA, in its issued assessment, has violated the provisions of Article (17) of the Regulations by failing to specify how retail selling prices were determined, which resulted in additional tax liabilities and associated fines. Furthermore, we would like to highlight the provisions of Paragraph (1) of Article (8) of the Regulations, which states the following: "The Retail Sales Price shall be determined, in accordance with the provisions of the Agreement". Moreover, Paragraph (2) of Article (6) of the Common Excise Tax Agreement of GCC States stipulates: "The value on which the tax is imposed on other excise goods shall be determined based on the retail selling price of these goods, provided that the retail selling price shall be the price determined by the importer or producer of the excise goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher". Accordingly, we would like to point out that the prices determined by ZATCA do not comply with the provisions stated above, as follows: 1. The retail selling prices are not based on the prices set by the importer or producer of the excise goods (i.e., the company in this case). 2. The standard price list agreed upon among the tax authorities of the GCC member states has not been shared. 3. We would like to clarify that the company's products are sold in multiple locations across the Kingdom. Consequently, the product's price category is determined based on the nature of the sales outlet. Prices may be higher in certain locations due to the nature of services provided and higher operational costs in those areas. The company, concerning the late payment fine, objects to such fine and requests full nullification for the following grounds: The company fundamentally disputes the tax assessment itself; therefore, the tax obligation and all related fines should be annulled. Furthermore, ZATCA must specify the due date for tax payment in its issued assessment notice, and no late payment fine should be imposed before the expiration of the prescribed payment due date, pursuant to the following legal provisions: This unequivocally demonstrates a distinction between the tax due for the tax period declared by the taxpayer in their periodic self-assessment for each tax period—where the taxpayer has full knowledge of their tax liability since they voluntarily report it—and the tax due as determined through an assessment

issued by ZATCA. The due date for payment is clearly specified before the date indicated in the assessment notice. Since the assessed taxpayer was unaware of the tax liability prior to the issuance of the assessment, they were not required to self-declare this tax before receiving ZATCA's assessment notification. Based on the foregoing, the company objects to the calculation and imposition of the late payment fine and requests nullification thereof.

On Sunday, 13/02/2022, the First Department to Adjudicate Excise Goods Tax Violations and Disputes in Riyadh, held its first session via video conference according to remote virtual litigation procedures at 5:00PM, based on Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH to consider the case filed by Plaintiff against Defendant. Having called the parties to the case, (....), holder of National ID No. (...), appeared in his capacity as Plaintiff's representative under PoA No. (...), and (....) holder of National ID No. (...), attended in its capacity as Defendant's representative under Authorization Letter No. (...) dated (.....) issued by the Deputy Governor for Legal Affairs. Having asked Plaintiff's representative regarding their client's case, he responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming contents included therein. When questioned regarding his response, Defendant's representative affirmed reliance on the arguments presented in the memorandum of reply filed in the case records. Defendant's representative, when questioned about the attachments referenced in the memorandum of reply and whether they were sent via email to Plaintiff, responded that the reference was to the assessment method. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions.

Accordingly, the Department decided to close pleading and adjourn session for deliberation before issuing decision.

Grounds

Having reviewed the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH , as amended, and its Implementing Regulations issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH , as amended, Excise Tax Law promulgated by Royal Decree No. (M/86) dated 27/08/1438 AH , as amended, the Implementing Regulations of the Law issued by the Decision of Board of Directors of General Authority of Zakat and Income (currently ZATCA) No. (19-3-2) dated 10/09/1440 AH , as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, and the relevant laws, regulations, and decisions.

In form, since Plaintiff seeks through its claim to annul Defendant's decision regarding the tax period for January and February 2020 and the fines imposed thereon, based on the Excise Tax Law and its Implementing Regulations, and since this dispute is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Excise Goods 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, the Department, upon examining the case file and considering the requests, defenses, and pleas presented by both parties, finds that the dispute revolves around Plaintiff's objection to Defendant's decision regarding the tax period of January and February 2020 and the associated fines. Plaintiff contests the amendment of its tax return without providing the basis for calculating the retail selling prices of excise goods. Regarding the calculation of the tax due, Plaintiff objects to the absence of a standard price list agreed upon by the tax authorities of the GCC states for reference when determining retail prices for its products or being allowed to determine the retail price itself. Defendant argues that it provided Plaintiff with the calculation method and the prices used via email. Upon reviewing the case file, the Department notes that the definition of the tax base in Article (1) of the Implementing Regulations of the Excise Tax Law states that it is: (The value of Excise Good on which Tax is imposed, equals to the retail sales price determined by the importer or producer, or the standard price agreed on these goods in accordance with the

Agreement, whichever is higher; exclusive of Tax due and VAT). Similarly, Paragraph (2) of Article (6) of the Common Excise Tax Agreement of GCC States stipulates "The value on which the tax is imposed on other excise goods shall be determined based on the retail selling price of these goods, provided that the retail selling price shall be the price determined by the importer or producer of the excise goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher". The Department further finds that, according to the case file, Plaintiff's goods were cleared by the Saudi Customs based on a valid import declaration and a proper tax return in accordance with Article (17) of the Implementing Regulations. Plaintiff had submitted all required documents and import declarations. However, Defendant failed to provide Plaintiff or the Department with the basis and methodology used to calculate the excise tax due, thereby violating Paragraph (4) of Article (17) of the Implementing Regulations. Additionally, Defendant did not present any evidence proving that Plaintiff engaged in any misrepresentation regarding the submitted data, nor did it substantiate the validity of its claim. Furthermore, Article (17) of the Implementing Regulations of the Excise Tax Law, which pertains to ZATCA's assessment of due tax, states: "The written notification shall include the grounds, on which the Authority calculates the amount of the Tax Due". Since the Department has not been provided with evidence, based on the documents submitted in the case, that Defendant has furnished Plaintiff with the basis and method used in calculating the excise tax due. Accordingly, Defendant's action lacks a valid legal basis and must be dismissed.

Regarding the late payment fine, since it resulted from Defendant's amendment of Plaintiff's tax return, and given the first item led to the annulment of Defendant's decision, and considering the late payment fine is a consequence thereof, the associated penalty follows the same ruling. Therefore, Plaintiff's claim is deemed valid.

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

Decision

First: Accept case in form.

Second: Annul Defendant's (ZATCA) decision against (....) Company, C. R. No. (...) Subject of the case.

This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision and may extend delivery date for another (30) days. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. If 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 his Family and Companions.

Appellate Committee:

Appeal Committee ruled to uphold the decision.

Committee for Determination of Tax Violations and Disputes
First Department to Adjudicate Excise Tax Violations and Disputes In Riyadh

Decision No.: ER- 2022- 21
Case No.: **E-75100-2021**

Key words:
Excise Tax – Basis for Calculating Tax Due – Late Payment – Annulment of Defendant's Decisions.

Abstract

Taxpayer seeks annulment of ZATCA's decision imposing excise tax, as well as the cancellation of registration and related amendments, and the waiver of the tax difference. The dispute arises from Plaintiff's objection to Defendant's decision regarding the tax period for July and August 2020 and the associated fines, specifically in relation to the amendment of Plaintiff's tax return without providing the basis used to determine the retail selling prices of excise goods. Plaintiff, regarding the basis for calculating the due tax, objects to the failure to be provided with the standard price list agreed upon among the tax authorities in the GCC countries for reference when determining the retail selling price of their products, or being permitted to set the retail selling price of their products. Defendant, in response, claims to have provided Plaintiff with the calculation method and the prices used via email. However, the Department, based on the documents submitted in the case, finds no evidence that Defendant furnished Plaintiff with the bases used in calculating the due tax amount. Therefore, the Department ruled to annul ZATCA's decision.

Documents:

- Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 21/04/1441 AH
- Excise Tax Law promulgated by Royal Decree No. (M/86) dated 27/08/1438 AH and its amendments
- Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH
- Article (1) and Paragraph (4) of Article (17) of the Implementing Regulations of the Excise Tax Law issued by Decision No. (19-3-2) of the Board of Directors of GAZT, dated 10/09/1440 AH and its amendments.
- Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. (1535) of 11/06/1425 AH
- Paragraph (2) of Article (6) of the Common Excise Tax Agreement of GCC States.

Facts

Facts of the case are summarized that ....., holder of National ID No. (.....), appeared in his capacity as Plaintiff's representative under PoA No. (....), submitted a statement of claim challenging ZATCA's decision regarding the tax period for July and August 2020 and the fines

imposed thereon, as outlined in the statement of claim, which is summarized as follows: "ZATCA issued a notification of the amended tax return invoice and assessment for the tax period of July and August 2020, pursuant to Notification and Assessment No. (....) dated 03/05/2021. The assessment indicated that the net payable tax amounted to SAR (165,634.92), while the payable fines totaled SAR (74,535.71). The company hereby submits its objection before your committee based on the following: The company, regarding ZATCA's calculation method of the retail selling prices of excise goods, objects to ZATCA's failure to provide it with the method used to calculate the retail selling prices of its excise goods. This objection is based on Paragraph (4) of Article (17) of the implementing Regulations of the Excise Tax Law, which states: "The written notification shall include the grounds, on which the Authority calculates the amount of the Tax Due". Accordingly, ZATCA, in its issued assessment, has violated the provisions of Article (17) of the Regulations by failing to specify how retail selling prices were determined, which resulted in additional tax liabilities and associated fines. Furthermore, we would like to highlight the provisions of Paragraph (1) of Article (8) of the Regulations, which states the following: "The Retail Sales Price shall be determined, in accordance with the provisions of the Agreement". Moreover, Paragraph (2) of Article (6) of the Common Excise Tax Agreement of GCC States stipulates: "The value on which the tax is imposed on other excise goods shall be determined based on the retail selling price of these goods, provided that the retail selling price shall be the price determined by the importer or producer of the excise goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher". Accordingly, we would like to point out that the prices determined by ZATCA do not comply with the provisions stated above, as follows: 1. The retail selling prices are not based on the prices set by the importer or producer of the excise goods (i.e., the company in this case). 2. The standard price list agreed upon among the tax authorities in the GCC member states was not shared, which could have been used as a reference in determining prices. The company respectfully requests your esteemed committee to accept this appeal and grant access to the standard price list agreed upon by the tax authorities in the GCC member states for reference in determining the retail selling price of its products or allow the company to determine the retail selling price of its products, using invoices issued by major retail stores, such as supermarkets or grocery stores. In addition to the foregoing, the company requests the full nullification of the tax and related fines, at least until an agreement on the retail selling prices of its products is reached for the disputed tax period in question. Second: Fines: The company formally objects to the late payment fine imposed by ZATCA. According to the payment invoice issued by ZATCA, a late payment fine of SAR (74,535.71) was calculated based on the tax amount stated in the invoice. Accordingly, the company contests this fine and requests its full nullification for the following reasons: The company fundamentally disputes the tax assessment itself; therefore, the tax obligation and all related fines should be annulled. Furthermore, ZATCA must specify the due date for tax payment in its issued assessment notice, and no late payment fine should be imposed before the expiration of the prescribed payment due date, pursuant to the following legal provisions: This unequivocally demonstrates a distinction between the tax due for the tax period declared by the taxpayer in their periodic self-assessment for each tax period—where the taxpayer has full knowledge of their tax liability since they voluntarily report it—and the tax due as determined through an assessment issued by ZATCA. The due date for payment is clearly specified before the date indicated in the assessment notice. Since the assessed taxpayer was unaware of the tax liability prior to the issuance of the assessment, they were not required to self-declare this tax before receiving ZATCA's assessment notification. Based on the foregoing, the company objects to the calculation and imposition of the late payment fine and the failure to specify a payment deadline within the assessment itself, as this contravenes the aforementioned legal provisions. The company hereby requests the complete nullification of the late payment fine amounting to SAR (74,535.71).

When presenting statement of claims to Defendant, it submitted a Reply summarizing the following points: "Upon reviewing Plaintiff's statement of claim, it is evident that the objections are limited to the assessment issued by ZATCA for the aforementioned tax periods, ZATCA's failure to provide Plaintiff with the methodology used to calculate the retail selling price, and the request for the nullification of the late payment fine. Accordingly, ZATCA summarizes its response as follows: First: With regard to the calculation of the retail selling price: ZATCA, upon reviewing Plaintiff's statement that ZATCA did not provide them with the method for calculating the retail selling prices of the company's excise goods, confirms that it did, in fact, provide Plaintiff with the calculation method and the prices used via email. Regarding the discrepancies in the calculation of prices for products subject to excise tax, Plaintiff submitted multiple disclosures of the prices of products subject to the excise tax. Given that Plaintiff failed to clarify the reasons for the price changes or provide supporting invoices and dates, ZATCA calculated the prices of certain products based on the highest price provided by Plaintiff, using the highest price for each product, based on Paragraph (1) of Article (6) of the Common Excise Tax Agreement of GCC States, which provides "The value on which the tax is imposed on other excise goods shall be determined based on the retail selling price of these goods, provided that the retail selling price shall be the price determined by the importer or producer of the excise goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher" and Article (8) of the Implementing Regulations of the Excise Tax Law. Second: Regarding late payment fine: A late payment fine was imposed for the aforementioned tax periods, due to the outcome of the assessment process. Article (22) of the Excise Tax Law stipulates "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid". Accordingly, ZATCA upholds the validity of its decision issued against Plaintiff and the resulting fines."

Plaintiff, upon presenting Defendant's response, submitted a memorandum, summarized as follows: The company objects to ZATCA's failure to provide it with the method used to calculate the retail selling prices of its excise goods. This objection is based on Paragraph (4) of Article (17) of the implementing Regulations of the Excise Tax Law, which states: "The written notification shall include the grounds, on which the Authority calculates the amount of the Tax Due". Accordingly, ZATCA, in its issued assessment, has violated the provisions of Article (17) of the Regulations by failing to specify how retail selling prices were determined, which resulted in additional tax liabilities and associated fines. Furthermore, we would like to highlight the provisions of Paragraph (1) of Article (8) of the Regulations, which states the following: "The Retail Sales Price shall be determined, in accordance with the provisions of the Agreement". Moreover, Paragraph (2) of Article (6) of the Common Excise Tax Agreement of GCC States stipulates: "The value on which the tax is imposed on other excise goods shall be determined based on the retail selling price of these goods, provided that the retail selling price shall be the price determined by the importer or producer of the excise goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher". Accordingly, we would like to point out that the prices determined by ZATCA do not comply with the provisions stated above, as follows: 1. The retail selling prices are not based on the prices set by the importer or producer of the excise goods (i.e., the company in this case). 2. The standard price list agreed upon among the tax authorities of the GCC member states has not been shared. 3. We would like to clarify that the company's products are sold in multiple locations across the Kingdom. Consequently, the product's price category is determined based on the nature of the sales outlet. Prices may be higher in certain locations due to the nature of services provided and higher operational costs in those areas. The company, concerning the late payment fine, objects to such fine and requests full nullification for the following grounds: The company fundamentally disputes the tax assessment itself; therefore, the tax obligation and all related fines should be annulled. Furthermore, ZATCA must specify the due date for tax payment

in its issued assessment notice, and no late payment fine should be imposed before the expiration of the prescribed payment due date, pursuant to the following legal provisions: This unequivocally demonstrates a distinction between the tax due for the tax period declared by the taxpayer in their periodic self-assessment for each tax period—where the taxpayer has full knowledge of their tax liability since they voluntarily report it—and the tax due as determined through an assessment issued by ZATCA. The due date for payment is clearly specified before the date indicated in the assessment notice. Since the assessed taxpayer was unaware of the tax liability prior to the issuance of the assessment, they were not required to self-declare this tax before receiving ZATCA's assessment notification. Based on the foregoing, the company objects to the calculation and imposition of the late payment fine and requests nullification thereof.

On Sunday, 13/02/2022, the First Department to Adjudicate Excise Goods Tax Violations and Disputes in Riyadh, held its first session via video conference according to remote virtual litigation procedures at 4:15 PM, based on Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH to consider the case filed by Plaintiff against Defendant. Having called the parties to the case, (....), holder of National ID No. (...), appeared in his capacity as Plaintiff's representative under PoA No. (...), and (....) holder of National ID No. (...), attended in its capacity as Defendant's representative under Authorization Letter No. (...) dated (.....) issued by the Deputy Governor for Legal Affairs. Having asked Plaintiff's representative regarding their case, they responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming the contents therein. When questioned regarding his response, Defendant's representative affirmed reliance on the arguments presented in the memorandum of reply filed in the case records. Defendant's representative, when questioned about the attachments referenced in the memorandum of reply and whether they were sent via email to Plaintiff, responded that the reference was to the assessment method. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Accordingly, the Department decided to close pleading and adjourn session for deliberation before issuing decision.

Grounds

Having reviewed the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH , as amended, Excise Tax Law promulgated by Royal Decree No. (M/86) dated 27/08/1438 AH , as amended, the Implementing Regulations of the Law issued by the Decision of Board of Directors of General Authority of Zakat and Income (currently ZATCA) No. (19-3-2) dated 10/09/1440 AH , as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, and the relevant laws and regulations.

In form, since Plaintiff seeks through its claim to annul Defendant's decision regarding the tax period for July and August 2020 and the fines imposed thereon, based on the Excise Tax Law and its Implementing Regulations, and since this dispute is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Excise Goods 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, the Department, upon examining the case file and considering the requests, defenses, and pleas presented by both parties, finds that the dispute revolves around Plaintiff's objection to Defendant's decision regarding the tax period of July and August 2020 and the associated fines. Plaintiff contests the amendment of its tax return without providing the basis for calculating the retail selling prices of excise goods. Regarding the calculation of the tax due, Plaintiff objects to the absence of a standard price list agreed upon by the tax authorities of the GCC states for reference when determining retail prices for its products or being allowed to determine the retail price itself. Defendant argues that it provided Plaintiff with the calculation method and the prices

used via email. Upon reviewing the case file, the Department notes that the definition of the tax base in Article (1) of the Implementing Regulations of the Excise Tax Law states that it is: (The value of Excise Good on which Tax is imposed, equals to the retail sales price determined by the importer or producer, or the standard price agreed on these goods in accordance with the Agreement, whichever is higher; exclusive of Tax due and VAT). Similarly, Paragraph (2) of Article (6) of the Common Excise Tax Agreement of GCC States stipulates "The value on which the tax is imposed on other excise goods shall be determined based on the retail selling price of these goods, provided that the retail selling price shall be the price determined by the importer or producer of the excise goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher". The Department further finds that, according to the case file, Plaintiff's goods were cleared by the Saudi Customs based on a valid import declaration and a proper tax return in accordance with Article (17) of the Implementing Regulations. Plaintiff had submitted all required documents and import declarations. However, Defendant failed to provide Plaintiff or the Department with the basis and methodology used to calculate the excise tax due, thereby violating Paragraph (4) of Article (17) of the Implementing Regulations. Additionally, Defendant did not present any evidence proving that Plaintiff engaged in any misrepresentation regarding the submitted data, nor did it substantiate the validity of its claim. Furthermore, Article (17) of the Implementing Regulations of the Excise Tax Law, which pertains to ZATCA's assessment of due tax, states: "The written notification shall include the grounds, on which the Authority calculates the amount of the Tax Due". Since the Department has not been provided with evidence, based on the documents submitted in the case, that Defendant has furnished Plaintiff with the basis and method used in calculating the excise tax due. Accordingly, Defendant's action lacks a valid legal basis and must be dismissed.

Regarding the late payment fine, since it resulted from Defendant's amendment of Plaintiff's tax return and given the first item led to the annulment of Defendant's decision, and considering the late payment fine is a consequence thereof, the associated penalty follows the same ruling. Therefore, Plaintiff's claim is deemed valid.

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

Decision

First: Accept case in form.

Second: Annul Defendant's (ZATCA) decision against (....) Company, C. R. No. (...) Subject of the case.

This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision and may extend delivery date for another (30) days. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. If 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 his Family and Companions.

Appellate Committee:

Appeal Committee ruled to uphold the decision.

Decision No.: ER- 2022- 23
Case No.: **E-75097-2021**

Key words:
Excise Tax – Basis for Calculating Tax Due – Late Payment – Annulment of Defendant's Decisions.

Abstract

Taxpayer seeks annulment of ZATCA's decision imposing excise tax, as well as the cancellation of registration and related amendments, and the waiver of the tax difference. The dispute arises from Plaintiff's objection to Defendant's decision regarding the tax period for May and June 2020 and the associated fines, specifically in relation to the amendment of Plaintiff's tax return without providing the basis used to determine the retail selling prices of excise goods. Plaintiff, regarding the basis for calculating the due tax, objects to the failure to be provided with the standard price list agreed upon among the tax authorities in the GCC countries for reference when determining the retail selling price of their products, or being permitted to set the retail selling price of their products. Defendant, in response, claims to have provided Plaintiff with the calculation method and the prices used via email. However, the Department, based on the documents submitted in the case, finds no evidence that Defendant furnished Plaintiff with the bases used in calculating the due tax amount. Therefore, the Department ruled to annul ZATCA's decisions.

Documents:

- The Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH
- Excise Tax Law promulgated by Royal Decree No. (M/86) dated 27/08/1438 AH and its amendments
- Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AHand its amendments
- Article (1) of the Implementing Regulations of the Excise Tax Law issued by Decision No. (19-3-2) of the Board of Directors of GAZT, dated 10/09/1440 AH and its amendments.
- Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. (1535) of 11/06/1425 AH
- Paragraph (2) of Article (6) of the Common Excise Tax Agreement of GCC States for the year 1438 AH, ratified by Royal Decree No. (M/51) dated 03/05/1438 AH.

Facts

Facts of the case are summarized that ....., holder of National ID No. (.....), appeared in his capacity as Plaintiff's representative under PoA No. (....), submitted a statement of claim challenging ZATCA's decision regarding the tax period for May and June 2020 and the fines imposed thereon, as outlined in the statement of claim, which is summarized as follows: "ZATCA issued a notification of the amended tax return invoice and assessment for the tax period of May

and June 2020, pursuant to Notification and Assessment No. (....) dated 03/05/2021. The assessment indicated that the net payable tax amounted to SAR (50,094.83), while the payable fines totaled SAR (7,522.16). The company hereby submits its objection before your committee based on the following: The company, regarding ZATCA's calculation method of the retail selling prices of excise goods, objects to ZATCA's failure to provide it with the method used to calculate the retail selling prices of its excise goods. This objection is based on Paragraph (4) of Article (17) of the implementing Regulations of the Excise Tax Law, which states: "The written notification shall include the grounds, on which the Authority calculates the amount of the Tax Due". Accordingly, ZATCA, in its issued assessment, has violated the provisions of Article (17) of the Regulations by failing to specify how retail selling prices were determined, which resulted in additional tax liabilities and associated fines. Furthermore, we would like to highlight the provisions of Paragraph (1) of Article (8) of the Regulations, which states the following: "The Retail Sales Price shall be determined, in accordance with the provisions of the Agreement". Moreover, Paragraph (2) of Article (6) of the Common Excise Tax Agreement of GCC States stipulates: "The value on which the tax is imposed on other excise goods shall be determined based on the retail selling price of these goods, provided that the retail selling price shall be the price determined by the importer or producer of the excise goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher". Accordingly, we would like to point out that the prices determined by ZATCA do not comply with the provisions stated above, as follows: 1. The retail selling prices are not based on the prices set by the importer or producer of the excise goods (i.e., the company in this case). 2. The standard price list agreed upon among the tax authorities in the GCC member states was not shared, which could have been used as a reference in determining prices. The company respectfully requests your esteemed committee to accept this appeal and grant access to the standard price list agreed upon by the tax authorities in the GCC member states for reference in determining the retail selling price of its products or allow the company to determine the retail selling price of its products, using invoices issued by major retail stores, such as supermarkets or grocery stores. In addition to the foregoing, the company requests the full nullification of the tax and related fines, at least until an agreement on the retail selling prices of its products is reached for the disputed tax period in question. Second: Fines: The company formally objects to the late payment fine imposed by ZATCA. According to the payment invoice issued by ZATCA, a late payment fine of SAR (27,552.16) was calculated based on the tax amount stated in the invoice. Accordingly, the company contests this fine and requests its full nullification for the following reasons: The company fundamentally disputes the tax assessment itself; therefore, the tax obligation and all related fines should be annulled. Furthermore, ZATCA must specify the due date for tax payment in its issued assessment notice, and no late payment fine should be imposed before the expiration of the prescribed payment due date, pursuant to the following legal provisions: This unequivocally demonstrates a distinction between the tax due for the tax period declared by the taxpayer in their periodic self-assessment for each tax period—where the taxpayer has full knowledge of their tax liability since they voluntarily report it—and the tax due as determined through an assessment issued by ZATCA. The due date for payment is clearly specified before the date indicated in the assessment notice. Since the assessed taxpayer was unaware of the tax liability prior to the issuance of the assessment, they were not required to self-declare this tax before receiving ZATCA's assessment notification. Based on the foregoing, the company objects to the calculation and imposition of the late payment fine and the failure to specify a payment deadline within the assessment itself, as this contravenes the aforementioned legal provisions. The company hereby requests the complete nullification of the late payment fine amounting to SAR (27,552.16).

When presenting statement of claims to Defendant, it submitted a Reply summarizing the following points: "Upon reviewing Plaintiff's statement of claim, it is evident that the objections are limited to the assessment issued by ZATCA for the aforementioned tax periods, ZATCA's failure to provide Plaintiff with the methodology used to calculate the retail selling price, and the

request for the nullification of the late payment fine. Accordingly, ZATCA summarizes its response as follows: First: With regard to the calculation of the retail selling price: ZATCA, upon reviewing Plaintiff's statement that ZATCA did not provide them with the method for calculating the retail selling prices of the company's excise goods, confirms that it did, in fact, provide Plaintiff with the calculation method and the prices used via email. Regarding the discrepancies in the calculation of prices for products subject to excise tax, Plaintiff submitted multiple disclosures of the prices of products subject to the excise tax. Given that Plaintiff failed to clarify the reasons for the price changes or provide supporting invoices and dates, ZATCA calculated the prices of certain products based on the highest price provided by Plaintiff, using the highest price for each product, based on Paragraph (1) of Article (6) of the Common Excise Tax Agreement of GCC States, which provides "The value on which the tax is imposed on other excise goods shall be determined based on the retail selling price of these goods, provided that the retail selling price shall be the price determined by the importer or producer of the excise goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher" and Article (8) of the Implementing Regulations of the Excise Tax Law. Second: Regarding late payment fine: A late payment fine was imposed for the aforementioned tax periods, due to the outcome of the assessment process. Article (22) of the Excise Tax Law stipulates "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid". Accordingly, ZATCA upholds the validity of its decision issued against Plaintiff and the resulting fines."

Plaintiff, upon presenting Defendant's response, submitted a memorandum, summarized as follows: The company objects to ZATCA's failure to provide it with the method used to calculate the retail selling prices of its excise goods. This objection is based on Paragraph (4) of Article (17) of the implementing Regulations of the Excise Tax Law, which states: "The written notification shall include the grounds, on which the Authority calculates the amount of the Tax Due". Accordingly, ZATCA, in its issued assessment, has violated the provisions of Article (17) of the Regulations by failing to specify how retail selling prices were determined, which resulted in additional tax liabilities and associated fines. Furthermore, we would like to highlight the provisions of Paragraph (1) of Article (8) of the Regulations, which states the following: "The Retail Sales Price shall be determined, in accordance with the provisions of the Agreement". Moreover, Paragraph (2) of Article (6) of the Common Excise Tax Agreement of GCC States stipulates: "The value on which the tax is imposed on other excise goods shall be determined based on the retail selling price of these goods, provided that the retail selling price shall be the price determined by the importer or producer of the excise goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher". Accordingly, we would like to point out that the prices determined by ZATCA do not comply with the provisions stated above, as follows: 1. The retail selling prices are not based on the prices set by the importer or producer of the excise goods (i.e., the company in this case). 2. The standard price list agreed upon among the tax authorities of the GCC member states has not been shared. 3. We would like to clarify that the company's products are sold in multiple locations across the Kingdom. Consequently, the product's price category is determined based on the nature of the sales outlet. Prices may be higher in certain locations due to the nature of services provided and higher operational costs in those areas. The company, concerning the late payment fine, objects to such fine and requests full nullification for the following grounds: The company fundamentally disputes the tax assessment itself; therefore, the tax obligation and all related fines should be annulled. Furthermore, ZATCA must specify the due date for tax payment in its issued assessment notice, and no late payment fine should be imposed before the expiration of the prescribed payment due date, pursuant to the following legal provisions: This unequivocally demonstrates a distinction between the tax due for the tax period declared by the taxpayer in their periodic self-assessment for each tax period—where the taxpayer has full knowledge of their tax

liability since they voluntarily report it—and the tax due as determined through an assessment issued by ZATCA. The due date for payment is clearly specified before the date indicated in the assessment notice. Since the assessed taxpayer was unaware of the tax liability prior to the issuance of the assessment, they were not required to self-declare this tax before receiving ZATCA's assessment notification. Based on the foregoing, the company objects to the calculation and imposition of the late payment fine and requests nullification thereof.

On Sunday, 13/02/2022, the First Department to Adjudicate Excise Goods Tax Violations and Disputes in Riyadh, held its first session via video conference according to remote virtual litigation procedures at 4:30 PM, based on Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH to consider the case filed by Plaintiff against Defendant. Having called the parties to the case, (....), holder of National ID No. (...), appeared in his capacity as Plaintiff's representative under PoA No. (...), and (....) holder of National ID No. (...), attended in its capacity as Defendant's representative under Authorization Letter No. (...) dated (.....) issued by the Deputy Governor for Legal Affairs. Having asked Plaintiff's representative regarding their case, they responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming the contents therein. When questioned regarding his response, Defendant's representative affirmed reliance on the arguments presented in the memorandum of reply filed in the case records. Defendant's representative, when questioned about the attachments referenced in the memorandum of reply and whether they were sent via email to Plaintiff, responded that the reference was to the assessment method. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Accordingly, the Department decided to close pleading and adjourn session for deliberation before issuing decision.

Grounds

Having reviewed the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH , as amended, Excise Tax Law promulgated by Royal Decree No. (M/86) dated 27/08/1438 AH , as amended, the Implementing Regulations of the Law issued by the Decision of Board of Directors of General Authority of Zakat and Income (currently ZATCA) No. (19-3-2) dated 10/09/1440 AH , as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, and the relevant laws and regulations.

In form, since Plaintiff seeks through its claim to annul Defendant's decision regarding the tax period for May and June 2020 and the fines imposed thereon, based on the Excise Tax Law and its Implementing Regulations, and since this dispute is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Excise Goods 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, the Department, upon examining the case file and considering the requests, defenses, and pleas presented by both parties, finds that the dispute revolves around Plaintiff's objection to Defendant's decision regarding the tax period of May and June 2020 and the associated fines. Plaintiff contests the amendment of its tax return without providing the basis for calculating the retail selling prices of excise goods. Regarding the calculation of the tax due, Plaintiff objects to the absence of a standard price list agreed upon by the tax authorities of the GCC states for reference when determining retail prices for its products or being allowed to determine the retail price itself. Defendant argues that it provided Plaintiff with the calculation method and the prices used via email. Upon reviewing the case file, the Department notes that the definition of the tax base in Article (1) of the Implementing Regulations of the Excise Tax Law states that it is: (The value of Excise Good on which Tax is imposed, equals to the retail sales price determined by the importer or producer, or the standard price agreed on these goods in accordance with the

Agreement, whichever is higher; exclusive of Tax due and VAT). Similarly, Paragraph (2) of Article (6) of the Common Excise Tax Agreement of GCC States stipulates "The value on which the tax is imposed on other excise goods shall be determined based on the retail selling price of these goods, provided that the retail selling price shall be the price determined by the importer or producer of the excise goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher". The Department further finds that, according to the case file, Plaintiff's goods were cleared by the Saudi Customs based on a valid import declaration and a proper tax return in accordance with Article (17) of the Implementing Regulations. Plaintiff had submitted all required documents and import declarations. However, Defendant failed to provide Plaintiff or the Department with the basis and methodology used to calculate the excise tax due, thereby violating Paragraph (4) of Article (17) of the Implementing Regulations. Additionally, Defendant did not present any evidence proving that Plaintiff engaged in any misrepresentation regarding the submitted data, nor did it substantiate the validity of its claim. Furthermore, Article (17) of the Implementing Regulations of the Excise Tax Law, which pertains to ZATCA's assessment of due tax, states: "The written notification shall include the grounds, on which the Authority calculates the amount of the Tax Due". Since the Department has not been provided with evidence, based on the documents submitted in the case, that Defendant has furnished Plaintiff with the basis and method used in calculating the excise tax due. Accordingly, Defendant's action lacks a valid legal basis and must be dismissed.

Regarding the late payment fine, since it resulted from Defendant's amendment of Plaintiff's tax return, and given the first item led to the annulment of Defendant's decision, and considering the late payment fine is a consequence thereof, the associated penalty follows the same ruling. Therefore, Plaintiff's claim is deemed valid.

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

Decision

First: Accept case in form.

Second: Annul Defendant's (ZATCA) decision against (....) Company, CR No. (....), Subject of the case.

This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision and may extend delivery date for another (30) days. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. If 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 his Family and Companions.

Appellate Committee:

Appeal Committee ruled to uphold the decision.

Committee for Determination of Tax Violations and Disputes
First Department to Adjudicate Excise Tax Violations and Disputes In Riyadh

Decision No.: ER- 2022- 24

Case No.: E-75108-2021

Key words:

Excise Tax – Basis for Calculating Tax Due – Late Payment – Annulment of Defendant's Decisions.

Abstract

Taxpayer seeks annulment of ZATCA's decision imposing excise tax, as well as the cancellation of registration and related amendments, and the waiver of the tax difference. The dispute arises from Plaintiff's objection to Defendant's decision regarding the tax period for September and October 2020 and the associated fines, specifically in relation to the amendment of Plaintiff's tax return without providing the basis used to determine the retail selling prices of excise goods. Plaintiff, regarding the basis for calculating the due tax, objects to the failure to be provided with the standard price list agreed upon among the tax authorities in the GCC countries for reference when determining the retail selling price of their products, or being permitted to set the retail selling price of their products. Defendant, in response, claims to have provided Plaintiff with the calculation method and the prices used via email. However, the Department, based on the documents submitted in the case, finds no evidence that Defendant furnished Plaintiff with the bases used in calculating the due tax amount. Therefore, the Department ruled to annul ZATCA's decision.

Documents:

- Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 21/04/1441 AH
- Excise Tax Law promulgated by Royal Decree No. (M/86) dated 27/08/1438 AH and its amendments
- Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AHand its amendments
- Article (1) and Paragraph (4) of Article (17) of the Implementing Regulations of the Excise Tax Law issued by Decision No. (19-3-2) of the Board of Directors of GAZT, dated 10/09/1440 AH and its amendments.
- Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. (1535) of 11/06/1425 AH
- Paragraph (2) of Article (6) of the Common Excise Tax Agreement of GCC States for the year 1438 AH, ratified by Royal Decree No. (M/51) dated 03/05/1438 AH.

Facts

Facts of the case are summarized that ....., holder of National ID No. (.....), appeared in his capacity as Plaintiff's representative under PoA No. (....), submitted a statement of claim challenging ZATCA's decision regarding the tax period for September and October 2020 and the

fines imposed thereon, as outlined in the statement of claim, which is summarized as follows: "ZATCA issued a notification of the amended tax return invoice and assessment for the tax period of September and October 2020, pursuant to Notification and Assessment No. (....) dated 03/05/2021. The assessment indicated that the net payable tax amounted to SAR (541,609.93), while the payable fines totaled SAR (189,563.48). The company hereby submits its objection before your committee based on the following: The company, regarding ZATCA's calculation method of the retail selling prices of excise goods, objects to ZATCA's failure to provide it with the method used to calculate the retail selling prices of its excise goods. This objection is based on Paragraph (4) of Article (17) of the implementing Regulations of the Excise Tax Law, which states: "The written notification shall include the grounds, on which the Authority calculates the amount of the Tax Due". Accordingly, ZATCA, in its issued assessment, has violated the provisions of Article (17) of the Regulations by failing to specify how retail selling prices were determined, which resulted in additional tax liabilities and associated fines. Furthermore, we would like to highlight the provisions of Paragraph (1) of Article (8) of the Regulations, which states the following: "The Retail Sales Price shall be determined, in accordance with the provisions of the Agreement". Moreover, Paragraph (2) of Article (6) of the Common Excise Tax Agreement of GCC States stipulates: "The value on which the tax is imposed on other excise goods shall be determined based on the retail selling price of these goods, provided that the retail selling price shall be the price determined by the importer or producer of the excise goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher". Accordingly, we would like to point out that the prices determined by ZATCA do not comply with the provisions stated above, as follows: 1. The retail selling prices are not based on the prices set by the importer or producer of the excise goods (i.e., the company in this case). 2. The standard price list agreed upon among the tax authorities in the GCC member states was not shared, which could have been used as a reference in determining prices. The company respectfully requests your esteemed committee to accept this appeal and grant access to the standard price list agreed upon by the tax authorities in the GCC member states for reference in determining the retail selling price of its products, or allow the company to determine the retail selling price of its products, using invoices issued by major retail stores, such as supermarkets or grocery stores. In addition to the foregoing, the company requests the full nullification of the tax and related fines, at least until an agreement on the retail selling prices of its products is reached for the disputed tax period in question. Second: Fines: The company formally objects to the late payment fine imposed by ZATCA. According to the payment invoice issued by ZATCA, a late payment fine of SAR (189,563.48) was calculated based on the tax amount stated in the invoice. Accordingly, the company contests this fine and requests its full nullification for the following reasons: The company fundamentally disputes the tax assessment itself; therefore, the tax obligation and all related fines should be annulled. Furthermore, ZATCA must specify the due date for tax payment in its issued assessment notice, and no late payment fine should be imposed before the expiration of the prescribed payment due date, pursuant to the following legal provisions: This unequivocally demonstrates a distinction between the tax due for the tax period declared by the taxpayer in their periodic self-assessment for each tax period—where the taxpayer has full knowledge of their tax liability since they voluntarily report it—and the tax due as determined through an assessment issued by ZATCA. The due date for payment is clearly specified before the date indicated in the assessment notice. Since the assessed taxpayer was unaware of the tax liability prior to the issuance of the assessment, they were not required to self-declare this tax before receiving ZATCA's assessment notification. Based on the foregoing, the company objects to the calculation and imposition of the late payment fine and the failure to specify a payment deadline within the assessment itself, as this contravenes the aforementioned legal provisions. The company hereby requests the complete nullification of the late payment fine amounting to SAR (189,563.48).

When presenting statement of claims to Defendant, it submitted a Reply summarizing the following points: "Upon reviewing Plaintiff's statement of claim, it is evident that the objections are limited to the assessment issued by ZATCA for the aforementioned tax periods, ZATCA's failure to provide Plaintiff with the methodology used to calculate the retail selling price, and the request for the nullification of the late payment fine. Accordingly, ZATCA summarizes its response as follows: First: Regarding the calculation of the retail selling price: ZATCA, upon reviewing Plaintiff's statement that ZATCA did not provide them with the method for calculating the retail selling prices of the company's excise goods, confirms that it did, in fact, provide Plaintiff with the calculation method and the prices used via email. Regarding the discrepancies in the calculation of prices for products subject to excise tax, Plaintiff submitted multiple disclosures of the prices of products subject to the excise tax. Given that Plaintiff failed to clarify the reasons for the price changes or provide supporting invoices and dates, ZATCA calculated the prices of certain products based on the highest price provided by Plaintiff, using the highest price for each product, based on Paragraph (1) of Article (6) of the Common Excise Tax Agreement of GCC States, which provides "The value on which the tax is imposed on other excise goods shall be determined based on the retail selling price of these goods, provided that the retail selling price shall be the price determined by the importer or producer of the excise goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher" and Article (8) of the Implementing Regulations of the Excise Tax Law. Second: Regarding late payment fine: A late payment fine was imposed for the aforementioned tax periods, due to the outcome of the assessment process. Article (22) of the Excise Tax Law stipulates "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid". Accordingly, ZATCA upholds the validity of its decision issued against Plaintiff and the resulting fines."

Plaintiff, upon presenting Defendant's response, submitted a memorandum, summarized as follows: The company objects to ZATCA's failure to provide it with the method used to calculate the retail selling prices of its excise goods. This objection is based on Paragraph (4) of Article (17) of the implementing Regulations of the Excise Tax Law, which states: "The written notification shall include the grounds, on which the Authority calculates the amount of the Tax Due". Accordingly, ZATCA, in its issued assessment, has violated the provisions of Article (17) of the Regulations by failing to specify how retail selling prices were determined, which resulted in additional tax liabilities and associated fines. Furthermore, we would like to highlight the provisions of Paragraph (1) of Article (8) of the Regulations, which states the following: "The Retail Sales Price shall be determined, in accordance with the provisions of the Agreement". Moreover, Paragraph (2) of Article (6) of the Common Excise Tax Agreement of GCC States stipulates: "The value on which the tax is imposed on other excise goods shall be determined based on the retail selling price of these goods, provided that the retail selling price shall be the price determined by the importer or producer of the excise goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher". Accordingly, we would like to point out that the prices determined by ZATCA do not comply with the provisions stated above, as follows: 1. The retail selling prices are not based on the prices set by the importer or producer of the excise goods (i.e., the company in this case). 2. The standard price list agreed upon among the tax authorities of the GCC member states has not been shared. 3. We would like to clarify that the company's products are sold in multiple locations across the Kingdom. Consequently, the product's price category is determined based on the nature of the sales outlet. Prices may be higher in certain locations due to the nature of services provided and higher operational costs in those areas. The company, concerning the late payment fine, objects to such fine and requests full nullification for the following grounds: The company fundamentally disputes the tax assessment itself; therefore, the tax obligation and all related fines should be annulled. Furthermore, ZATCA must specify the due date for tax payment

in its issued assessment notice, and no late payment fine should be imposed before the expiration of the prescribed payment due date, pursuant to the following legal provisions: This unequivocally demonstrates a distinction between the tax due for the tax period declared by the taxpayer in their periodic self-assessment for each tax period—where the taxpayer has full knowledge of their tax liability since they voluntarily report it—and the tax due as determined through an assessment issued by ZATCA. The due date for payment is clearly specified before the date indicated in the assessment notice. Since the assessed taxpayer was unaware of the tax liability prior to the issuance of the assessment, they were not required to self-declare this tax before receiving ZATCA's assessment notification. Based on the foregoing, the company objects to the calculation and imposition of the late payment fine and requests nullification thereof.

On Sunday, 13/02/2022, the First Department to Adjudicate Excise Goods Tax Violations and Disputes in Riyadh, held its first session via video conference according to remote virtual litigation procedures at 4:00 PM, based on Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH to consider the case filed by Plaintiff against Defendant. Having called the parties to the case, (....), holder of National ID No. (...), appeared in his capacity as Plaintiff's representative under PoA No. (...), and (....) holder of National ID No. (...), attended in its capacity as Defendant's representative under Authorization Letter No. (...) dated (.....) issued by the Deputy Governor for Legal Affairs. Having asked Plaintiff's representative regarding their case, they responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming the contents therein. When questioned regarding his response, Defendant's representative affirmed reliance on the arguments presented in the memorandum of reply filed in the case records. Defendant's representative, when questioned about the attachments referenced in the memorandum of reply and whether they were sent via email to Plaintiff, responded that the reference was to the assessment method. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Accordingly, the Department decided to close pleading and adjourn session for deliberation before issuing decision.

Grounds

Having reviewed the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH , as amended, Excise Tax Law promulgated by Royal Decree No. (M/86) dated 27/08/1438 AH , as amended, the Implementing Regulations of the Law issued by the Decision of Board of Directors of General Authority of Zakat and Income (currently ZATCA) No. (19-3-2) dated 10/09/1440 AH , as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, and the relevant laws and regulations.

In form, since Plaintiff seeks through its claim to annul Defendant's decision regarding the tax period for September and October 2020 and the fines imposed thereon, based on the Excise Tax Law and its Implementing Regulations, and since this dispute is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Excise Goods 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, the Department, upon examining the case file and considering the requests, defenses, and pleas presented by both parties, finds that the dispute revolves around Plaintiff's objection to Defendant's decision regarding the tax period of September and October 2020 and the associated fines. Plaintiff contests the amendment of its tax return without providing the basis for calculating the retail selling prices of excise goods. Regarding the calculation of the tax due, Plaintiff objects to the absence of a standard price list agreed upon by the tax authorities of the GCC states for reference when determining retail prices for its products or being allowed to determine the retail price itself. Defendant argues that it provided Plaintiff with the calculation method and the prices

used via email. Upon reviewing the case file, the Department notes that the definition of the tax base in Article (1) of the Implementing Regulations of the Excise Tax Law states that it is: (The value of Excise Good on which Tax is imposed, equals to the retail sales price determined by the importer or producer, or the standard price agreed on these goods in accordance with the Agreement, whichever is higher; exclusive of Tax due and VAT). Similarly, Paragraph (2) of Article (6) of the Common Excise Tax Agreement of GCC States stipulates "The value on which the tax is imposed on other excise goods shall be determined based on the retail selling price of these goods, provided that the retail selling price shall be the price determined by the importer or producer of the excise goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher". The Department further finds that, according to the case file, Plaintiff's goods were cleared by the Saudi Customs based on a valid import declaration and a proper tax return in accordance with Article (17) of the Implementing Regulations. Plaintiff had submitted all required documents and import declarations. However, Defendant failed to provide Plaintiff or the Department with the basis and methodology used to calculate the excise tax due, thereby violating Paragraph (4) of Article (17) of the Implementing Regulations. Additionally, Defendant did not present any evidence proving that Plaintiff engaged in any misrepresentation regarding the submitted data, nor did it substantiate the validity of its claim. Furthermore, Article (17) of the Implementing Regulations of the Excise Tax Law, which pertains to ZATCA's assessment of due tax, states: "The written notification shall include the grounds, on which the Authority calculates the amount of the Tax Due". Since the Department has not been provided with evidence, based on the documents submitted in the case, that Defendant has furnished Plaintiff with the basis and method used in calculating the excise tax due. Accordingly, Defendant's action lacks a valid legal basis and must be dismissed.

Regarding the late payment fine, since it resulted from Defendant's amendment of Plaintiff's tax return, and given the first item led to the annulment of Defendant's decision, and considering the late payment fine is a consequence thereof, the associated penalty follows the same ruling. Therefore, Plaintiff's claim is deemed valid.

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

Decision

First: Accept case in form.

Second: Annul Defendant's (ZATCA) decision against (....) Company, CR No. (...), Subject of the case.

This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. If 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 his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Decision No.: ER- 2022- 27
Case No.: **E-75093-2021**

Key words:
Excise Tax – Basis for Calculating Tax Due – Late Payment – Annulment of Defendant's Decisions.

Abstract

Taxpayer seeks annulment of ZATCA's decision imposing excise tax, as well as the cancellation of registration and related amendments, and the waiver of the tax difference. The dispute arises from Plaintiff's objection to Defendant's decision regarding the tax period for March and April 2020 and the associated fines, specifically in relation to the amendment of Plaintiff's tax return without providing the basis used to determine the retail selling prices of excise goods. Plaintiff, regarding the basis for calculating the due tax, objects to the failure to be provided with the standard price list agreed upon among the tax authorities in the GCC countries for reference when determining the retail selling price of their products, or being permitted to set the retail selling price of their products. Defendant, in response, claims to have provided Plaintiff with the calculation method and the prices used via email. However, the Department, based on the documents submitted in the case, finds no evidence that Defendant furnished Plaintiff with the bases used in calculating the due tax amount. Therefore, the Department ruled to annul ZATCA's decision.

Documents:

- Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 21/04/1441 AH
- Excise Tax Law promulgated by Royal Decree No. (M/86) dated 27/08/1438 AH and its amendments
- Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AHand its amendments
- Article (1) and Paragraph (4) of Article (17) of the Implementing Regulations of the Excise Tax Law issued by Decision No. (19-3-2) of the Board of Directors of GAZT, dated 10/09/1440 AH and its amendments.
- Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. (1535) of 11/06/1425 AH
- Paragraph (2) of Article (6) of the Common Excise Tax Agreement of GCC States for the year 1438 AH, ratified by Royal Decree No. (M/51) dated 03/05/1438 AH.

Facts

Facts of the case are summarized that ....., holder of National ID No. (.....), appeared in his capacity as Plaintiff's representative under PoA No. (....), submitted a statement of claim challenging ZATCA's decision regarding the tax period for March and April 2020 and the fines

imposed thereon, as outlined in the statement of claim, which is summarized as follows: "ZATCA issued a notification of the amended tax return invoice and assessment for the tax period of March and April 2020, pursuant to Notification and Assessment No. (....) dated 03/05/2021. The assessment indicated that the net payable tax amounted to SAR (502,095.89), while the payable fines totaled SAR (251,047.95). The company hereby submits its objection before your committee based on the following: The company, regarding ZATCA's calculation method of the retail selling prices of excise goods, objects to ZATCA's failure to provide it with the method used to calculate the retail selling prices of its excise goods. This objection is based on Paragraph (4) of Article (17) of the implementing Regulations of the Excise Tax Law, which states: "The written notification shall include the grounds, on which the Authority calculates the amount of the Tax Due". Accordingly, ZATCA, in its issued assessment, has violated the provisions of Article (17) of the Regulations by failing to specify how retail selling prices were determined, which resulted in additional tax liabilities and associated fines. Furthermore, we would like to highlight the provisions of Paragraph (1) of Article (8) of the Regulations, which states the following: "The Retail Sales Price shall be determined, in accordance with the provisions of the Agreement". Moreover, Paragraph (2) of Article (6) of the Common Excise Tax Agreement of GCC States stipulates: "The value on which the tax is imposed on other excise goods shall be determined based on the retail selling price of these goods, provided that the retail selling price shall be the price determined by the importer or producer of the excise goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher". Accordingly, we would like to point out that the prices determined by ZATCA do not comply with the provisions stated above, as follows: 1. The retail selling prices are not based on the prices set by the importer or producer of the excise goods (i.e., the company in this case). 2. The standard price list agreed upon among the tax authorities in the GCC member states was not shared, which could have been used as a reference in determining prices. The company respectfully requests your esteemed committee to accept this appeal and grant access to the standard price list agreed upon by the tax authorities in the GCC member states for reference in determining the retail selling price of its products or allow the company to determine the retail selling price of its products, using invoices issued by major retail stores, such as supermarkets or grocery stores. In addition to the foregoing, the company requests the full nullification of the tax and related fines, at least until an agreement on the retail selling prices of its products is reached for the disputed tax period in question. Second: Fines: The company formally objects to the late payment fine imposed by ZATCA. According to the payment invoice issued by ZATCA, a late payment fine of SAR (251,047.95) was calculated based on the tax amount stated in the invoice. Accordingly, the company contests this fine and requests its full nullification for the following reasons: The company fundamentally disputes the tax assessment itself; therefore, the tax obligation and all related fines should be annulled. Furthermore, ZATCA must specify the due date for tax payment in its issued assessment notice, and no late payment fine should be imposed before the expiration of the prescribed payment due date, pursuant to the following legal provisions: This unequivocally demonstrates a distinction between the tax due for the tax period declared by the taxpayer in their periodic self-assessment for each tax period—where the taxpayer has full knowledge of their tax liability since they voluntarily report it—and the tax due as determined through an assessment issued by ZATCA. The due date for payment is clearly specified before the date indicated in the assessment notice. Since the assessed taxpayer was unaware of the tax liability prior to the issuance of the assessment, they were not required to self-declare this tax before receiving ZATCA's assessment notification. Based on the foregoing, the company objects to the calculation and imposition of the late payment fine and the failure to specify a payment deadline within the assessment itself, as this contravenes the aforementioned legal provisions. The company hereby requests the complete nullification of the late payment fine amounting to SAR (251,047.95).

When presenting statement of claims to Defendant, it submitted a Reply summarizing the following points: "Upon reviewing Plaintiff's statement of claim, it is evident that the objections are limited to the assessment issued by ZATCA for the aforementioned tax periods, ZATCA's failure to provide Plaintiff with the methodology used to calculate the retail selling price, and the request for the nullification of the late payment fine. Accordingly, ZATCA summarizes its response as follows: First: With regard to the calculation of the retail selling price: ZATCA, upon reviewing Plaintiff's statement that ZATCA did not provide them with the method for calculating the retail selling prices of the company's excise goods, confirms that it did, in fact, provide Plaintiff with the calculation method and the prices used via email. Regarding the discrepancies in the calculation of prices for products subject to excise tax, Plaintiff submitted multiple disclosures of the prices of products subject to the excise tax. Given that Plaintiff failed to clarify the reasons for the price changes or provide supporting invoices and dates, ZATCA calculated the prices of certain products based on the highest price provided by Plaintiff, using the highest price for each product, based on Paragraph (1) of Article (6) of the Common Excise Tax Agreement of GCC States, which provides "The value on which the tax is imposed on other excise goods shall be determined based on the retail selling price of these goods, provided that the retail selling price shall be the price determined by the importer or producer of the excise goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher" and Article (8) of the Implementing Regulations of the Excise Tax Law. Second: Regarding late payment fine: A late payment fine was imposed for the aforementioned tax periods, due to the outcome of the assessment process. Article (22) of the Excise Tax Law stipulates "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid". Accordingly, ZATCA upholds the validity of its decision issued against Plaintiff and the resulting fines."

Plaintiff, upon presenting Defendant's response, submitted a memorandum, summarized as follows: The company objects to ZATCA's failure to provide it with the method used to calculate the retail selling prices of its excise goods. This objection is based on Paragraph (4) of Article (17) of the implementing Regulations of the Excise Tax Law, which states: "The written notification shall include the grounds, on which the Authority calculates the amount of the Tax Due". Accordingly, ZATCA, in its issued assessment, has violated the provisions of Article (17) of the Regulations by failing to specify how retail selling prices were determined, which resulted in additional tax liabilities and associated fines. Furthermore, we would like to highlight the provisions of Paragraph (1) of Article (8) of the Regulations, which states the following: "The Retail Sales Price shall be determined, in accordance with the provisions of the Agreement". Moreover, Paragraph (2) of Article (6) of the Common Excise Tax Agreement of GCC States stipulates: "The value on which the tax is imposed on other excise goods shall be determined based on the retail selling price of these goods, provided that the retail selling price shall be the price determined by the importer or producer of the excise goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher". Accordingly, we would like to point out that the prices determined by ZATCA do not comply with the provisions stated above, as follows: 1. The retail selling prices are not based on the prices set by the importer or producer of the excise goods (i.e., the company in this case). 2. The standard price list agreed upon among the tax authorities of the GCC member states has not been shared. 3. We would like to clarify that the company's products are sold in multiple locations across the Kingdom. Consequently, the product's price category is determined based on the nature of the sales outlet. Prices may be higher in certain locations due to the nature of services provided and higher operational costs in those areas. The company, concerning the late payment fine, objects to such fine and requests full nullification for the following grounds: The company fundamentally disputes the tax assessment itself; therefore, the tax obligation and all related fines should be annulled. Furthermore, ZATCA must specify the due date for tax payment

in its issued assessment notice, and no late payment fine should be imposed before the expiration of the prescribed payment due date, pursuant to the following legal provisions: This unequivocally demonstrates a distinction between the tax due for the tax period declared by the taxpayer in their periodic self-assessment for each tax period—where the taxpayer has full knowledge of their tax liability since they voluntarily report it—and the tax due as determined through an assessment issued by ZATCA. The due date for payment is clearly specified before the date indicated in the assessment notice. Since the assessed taxpayer was unaware of the tax liability prior to the issuance of the assessment, they were not required to self-declare this tax before receiving ZATCA's assessment notification. Based on the foregoing, the company objects to the calculation and imposition of the late payment fine and requests nullification thereof.

On Sunday, 13/02/2022, the First Department to Adjudicate Excise Goods Tax Violations and Disputes in Riyadh, held its first session via video conference according to remote virtual litigation procedures at 4:45 PM, based on Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH to consider the case filed by Plaintiff against Defendant. Having called the parties to the case, (....), holder of National ID No. (...), appeared in his capacity as Plaintiff's representative under PoA No. (...), and (....) holder of National ID No. (...), attended in its capacity as Defendant's representative under Authorization Letter No. (...) dated (.....) issued by the Deputy Governor for Legal Affairs. Having asked Plaintiff's representative regarding their case, they responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming the contents therein. When questioned regarding his response, Defendant's representative affirmed reliance on the arguments presented in the memorandum of reply filed in the case records. Defendant's representative, when questioned about the attachments referenced in the memorandum of reply and whether they were sent via email to Plaintiff, responded that the reference was to the assessment method. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Accordingly, the Department decided to close pleading and adjourn session for deliberation before issuing decision.

Grounds

Having reviewed the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH , as amended, Excise Tax Law promulgated by Royal Decree No. (M/86) dated 27/08/1438 AH , as amended, the Implementing Regulations of the Law issued by the Decision of Board of Directors of General Authority of Zakat and Income (currently ZATCA) No. (19-3-2) dated 10/09/1440 AH , as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, and the relevant laws and regulations.

In form, since Plaintiff seeks through its claim to annul Defendant's decision regarding the tax period for March and April 2020 and the fines imposed thereon, based on the Excise Tax Law and its Implementing Regulations, and since this dispute is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Excise Goods 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, the Department, upon examining the case file and considering the requests, defenses, and pleas presented by both parties, finds that the dispute revolves around Plaintiff's objection to Defendant's decision regarding the tax period of March and April 2020 and the associated fines. Plaintiff contests the amendment of its tax return without providing the basis for calculating the retail selling prices of excise goods. Regarding the calculation of the tax due, Plaintiff objects to the absence of a standard price list agreed upon by the tax authorities of the GCC states for reference when determining retail prices for its products or being allowed to determine the retail price itself. Defendant argues that it provided Plaintiff with the calculation method and the prices

used via email. Upon reviewing the case file, the Department notes that the definition of the tax base in Article (1) of the Implementing Regulations of the Excise Tax Law states that it is: (The value of Excise Good on which Tax is imposed, equals to the retail sales price determined by the importer or producer, or the standard price agreed on these goods in accordance with the Agreement, whichever is higher; exclusive of Tax due and VAT). Similarly, Paragraph (2) of Article (6) of the Common Excise Tax Agreement of GCC States stipulates "The value on which the tax is imposed on other excise goods shall be determined based on the retail selling price of these goods, provided that the retail selling price shall be the price determined by the importer or producer of the excise goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher". The Department further finds that, according to the case file, Plaintiff's goods were cleared by the Saudi Customs based on a valid import declaration and a proper tax return in accordance with Article (17) of the Implementing Regulations. Plaintiff had submitted all required documents and import declarations. However, Defendant failed to provide Plaintiff or the Department with the basis and methodology used to calculate the excise tax due, thereby violating Paragraph (4) of Article (17) of the Implementing Regulations. Additionally, Defendant did not present any evidence proving that Plaintiff engaged in any misrepresentation regarding the submitted data, nor did it substantiate the validity of its claim. Furthermore, Article (17) of the Implementing Regulations of the Excise Tax Law, which pertains to ZATCA's assessment of due tax, states: "The written notification shall include the grounds, on which the Authority calculates the amount of the Tax Due". Since the Department has not been provided with evidence, based on the documents submitted in the case, that Defendant has furnished Plaintiff with the basis and method used in calculating the excise tax due. Accordingly, Defendant's action lacks a valid legal basis and must be dismissed.

Regarding the late payment fine, since it resulted from Defendant's amendment of Plaintiff's tax return, and given the first item led to the annulment of Defendant's decision, and considering the late payment fine is a consequence thereof, the associated penalty follows the same ruling. Therefore, Plaintiff's claim is deemed valid.

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

Decision

First: Accept case in form.

Second: Annul Defendant's (ZATCA) decision against (....) Company, CR No. (...), Subject of the case.

This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. In the event that objection is not submitted within this period, it shall become final and enforceable after expiration hereof.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes First Department to Adjudicate Excise Tax Violations and Disputes In Riyadh

Decision No.: ER- 2022- 30

Case No.: V-33228-2020

Key words:
Excise Tax – Field Inspection Fine – Tax Stamps – Case Dismissal.

Abstract

Taxpayer challenges ZATCA's decision to impose a fine of SAR 10,000 for violating the provisions of the law or regulations. Taxpayer seeks to have the fine revoked, claiming to have relinquished the grocery store to another company. The Department, upon reviewing the documents submitted in the case, found that the commercial registration belongs to Plaintiff and corresponds to the number on the business license. Furthermore, Plaintiff has not provided any supporting evidence to substantiate their claim. Therefore, the Department ruled to dismiss the Taxpayer's case.

Documents:

- Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 21/04/1441 AH
- Excise Tax Law promulgated by Royal Decree No. (M/86) dated 27/08/1438 AH and its amendments
- Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AHand its amendments
- Implementing Regulations of the Excise Tax Law issued by Decision No. (19-3-2) of the Board of Directors of GAZT, dated 10/09/1440 AH and its amendments.
- Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. (1535) of 11/06/1425 AH

Facts

Facts of the case are summarized that ....., holder of National ID No. (.....), in his capacity as the owner of (....) Est., CR. No. (...), submitted a statement of claim objecting to the imposition of a fine of SAR 10,000 for violating the provisions of the law or regulations, encompassing the following: "I kindly request Your Excellency to review the penalties imposed on us, as a field inspection violation fine with reference number (…) was issued due to the absence of tax stamps. However, the grocery store was relinquished to (...) company on 26/11/1440 AH, which is prior to the fine issuance date, and the establishment's activity was changed after the relinquishment." Accordingly, Plaintiff requests nullification of the imposed fine.

Defendant, upon presenting the statement of claim, responded as follows: "ZATCA's representative conducted an on-site inspection of Plaintiff's premises and examined the products being sold during the field campaign to verify compliance with the Excise Tax Law and its Implementing Regulations. Upon inspection, it was found that Plaintiff was in violation of the provisions set forth in Paragraph (1) of Article (9) of the Implementing Regulations of the Excise Tax Law. Failure to comply with statutory provisions constitutes a violation punishable under Paragraph (3) of Article (23) of the Excise Tax Law, which states "A fine not exceeding fifty

thousand (50,000) riyals shall be imposed on any Person that violates any other provision of the law or its regulations." Accordingly, ZATCA respectfully requests the honorable Committee to rule for the dismissal of the case."

On Sunday, 20/02/2022, The First Department to Adjudicate Excise Goods Tax Violations and Disputes in Riyadh convened a session via video conferencing at 7:45 PM, in accordance with the remote virtual litigation procedures; pursuant to the provisions of Article 15.2 of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) and dated 21/04/1441 AH to consider the Case filed Plaintiff against Defendant. Having called the parties to the Case, the Department found that (...), Saudi under National ID No. (....), in his capacity as the Plaintiff's representative under PoA No. (…), and Ms. (....), Saudi National under National ID No. (...), appeared in her capacity as Defendant's representative under Authorization Letter No. (...) dated (.....) issued by the Deputy Governor for Legal Affairs. Having asked Plaintiff's representative regarding their case, they responded in accordance with the statement submitted to the General Secretariat of Zakat, Tax, and Customs Committees, affirming the contents therein. When questioned regarding her response, Defendant's representative affirmed reliance on the arguments presented in the memorandum of reply filed in the case records. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Accordingly, the Department decided to close pleading and adjourn session for deliberation before issuing decision.

Grounds

Having reviewed the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH , as amended, and its Implementing Regulations issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH , as amended, Excise Tax Law promulgated by Royal Decree No. (M/86) dated 27/08/1438 AH , as amended, the Implementing Regulations of the Law issued by the Decision of Board of Directors of General Authority of Zakat and Income (currently ZATCA) No. (19-3-2) dated 10/09/1440 AH , as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, and the relevant laws, regulations, and decisions.

In form, Since Plaintiff filed its case to annul Defendant's decision imposing a field inspection fine, based on Excise Tax Law and its Implementing Regulations, and since this dispute is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Excise Goods Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a person, and within the period prescribed by law, it is therefore accepted in form.

On merits, the Department, upon reviewing the case documents and the responses of both parties, following the provision of adequate time for argument presentation, has established that the fine of SAR 10,000 for violating the provisions of the law or regulations was imposed on Plaintiff due to the possession of products lacking the required tax stamps. Plaintiff seeks nullification of the fine, citing the relinquishment of the grocery store to (...) company on (...). However, upon reviewing the documents submitted in the case, it is evident that CR No. (...) is registered under Plaintiff's name and corresponds to the number on the business license. Furthermore, Plaintiff has not provided any supporting evidence to substantiate their claim. In this regard, Paragraph (1) of Article (9) of the Implementing Regulation of the Excise Tax Law stipulates: "Valid Tax Stamps shall be affixed to the designated Excise Goods and shall be activated prior to releasing for consumption in the Kingdom. The Authority shall determine the procedures for activation and verification of validity of Tax Stamps". Paragraph (3) of Article (9) of the same Regulations provides: "The person responsible for affixing to and activating Tax Stamps of Designated Excise Goods shall be the Registrant who is or will be releasing these Goods for consumption in the Kingdom in the cases referred to in Paragraphs (1), (2) and (3) of Article (5) of these Regulations". Moreover, Article (23) of the Excise Tax Law stipulates: "A fine not exceeding 50,000 riyals shall

be imposed on any person who: 3. any Person that violates any other provision of the law or its regulations". Therefore, the Department satisfies to dismiss Plaintiff's case.
For the aforementioned grounds, the Department unanimously decided as follows:

Decision

First: Accept case in form.
Second: Dismiss the case filed by Plaintiff/ …, holder of National ID No. (...), against Defendant's decision regarding the subject matter of the case.
This decision was issued in presence of both parties. Department set thirty (30) days from date for receiving copy of decision, and may extend delivery date for another (30) days. Parties hereto may request to appeal decision within thirty (30) days from the day following the date specified for its receipt. If 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 his Family and Companions.

(Judgment has become final by expiration of objection period under Article 40 of Rules of Tax Dispute and Violation Committee Procedures).

Committee for Determination of Tax Violations and Disputes
First Department to Adjudicate Excise Tax Violations and Disputes in Riyadh

Decision No.: ER- 2022- 80

Case No.: E-47805-2022

Key words:

Excise Tax – Excise Tax Assessment – Invalid Assessment – Annulment of Defendant's Decisions.

Abstract

Taxpayer seeks annulment of ZATCA's decision regarding the excise tax assessment and the imposition of an excise tax amounting to SAR 4,773,886.85, citing the invalidity of the assessment issued by Defendant, which failed to furnish the company with a copy of the required payment invoice or the final assessment. Since it is established to the Department, based on Defendant's response, that Defendant does not dispute the validity of Plaintiff's claim and has acknowledged that the issue has been rectified by adjusting the excise tax due on Plaintiff, and given that Plaintiff's representative has requested the Department to issue a decision to preserve their client's right. Therefore, the Department decided to annul Defendant's decisions.

Documents:

- Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 21/04/1441 AH
- Excise Tax Law promulgated by Royal Decree No. (M/86) dated 27/08/1438 AH and its amendments
- Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH
- Article 1 of the Implementing Regulations of the Excise Tax Law issued by Decision No. (19-3-2) of the Board of Directors of GAZT, dated 10/09/1440 AH and its amendments
- Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. (1535) of 11/06/1425 AH
- Paragraph (2) of Article (6) of the Common Excise Tax Agreement of GCC States.

Facts

Facts of this case are summarized that (....), holder of National ID No. (...), acting as Plaintiff's representative under PoA No. (...), submitted a statement of claim challenging ZATCA's decision regarding the excise tax assessment and the imposition of an excise tax amounting to SAR 4,773,886.85, citing the invalidity of the assessment issued by Defendant, which failed to furnish the company with a copy of the required payment invoice or the final assessment. The claim concludes with a request to annul Defendant's decision.

When presenting statement of claims to Defendant, it submitted a Reply summarizing the following points: "With regard to Plaintiff's objection to the excise tax imposed under Invoice No. (…) totaling SAR 4,175,972.14, we inform the honorable Committee that the tax difference of SAR 4,175,972.14 imposed by ZATCA pertains to a deferred tax. The company had benefited from the initiative introduced during the COVID-19 pandemic, which allowed for the deferral of excise tax due upon import. Accordingly, ZATCA had previously made the necessary adjustments

(attached is evidence of the adjustment)."The response concluded with a request to dismiss Plaintiff's case.

On Sunday, 15/05/2022, the First Department to Adjudicate Excise Goods Tax Violations and Disputes in Riyadh, held its first session via video conference according to remote virtual litigation procedures at 4:45 PM, based on Article (15.2) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH to consider the case filed by Plaintiff against Defendant. When Parties to case were called, (....), Saudi under National ID No. (...), attended in his capacity as Plaintiff's representative under PoA No. (....), as well as (.....), a Saudi national under National ID No. (....), attended as Defendant's representative under Authorization Letter No. (...) Dated ../../... issued by Deputy Governor for Legal Affairs. Plaintiff's representative, upon questioning regarding their case, responded in accordance with the statement of claim submitted to the General Secretariat of the Zakat, Tax, and Customs Committees, affirming the arguments therein and further requested a ruling to annul Defendant's decision in question, based on the submissions made by Defendant's representative. When questioned regarding his response, Defendant's representative affirmed reliance on the arguments presented in the memorandum of reply filed in the case records. Having asked the parties to the case if they had any other statements, they decided to suffice with their earlier submissions. Accordingly, the Department decided to close pleading and adjourn session for deliberation before issuing decision.

Grounds

Having reviewed the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1425 AH, as amended, and its Implementing Regulations issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH , as amended, Excise Tax Law promulgated by Royal Decree No. (M/86) dated 27/08/1438 AH , as amended, the Implementing Regulations of the Law issued by the Decision of Board of Directors of General Authority of Zakat and Income (currently ZATCA) No. (19-3-2) dated 10/09/1440 AH , as amended, and Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 11/06/1441 AH, and the relevant laws and regulations.

In form, Since Plaintiff filed its case to annul Defendant's decision concerning the difference in the imposed excise tax, based on Excise Tax Law and its Implementing Regulations, and since this dispute is a tax dispute, it then falls within the jurisdiction of the Committee for Resolution of Excise Goods Tax Violations and Disputes as per Royal Order No. (26040) dated 21/04/1441 AH, and since the case was filed by a person, and within the period prescribed by law, it is therefore accepted in form.

On merits, the Department, upon examining the case file and considering the requests, defenses, and pleas presented by both parties, finds that the dispute revolves around Plaintiff's objection to Defendant's decision regarding the tax period for June 2020, specifically concerning the tax differences. It has been established that Defendant added tax differences due to the Plaintiff's failure to disclose imported goods cleared through the Saudi Customs in their tax return. The Department, upon reviewing the case file and the documents submitted by Plaintiff notes the following: The tax base, pursuant to Article (1) of the Implementing Regulations of the Excise Tax Law, is defined as "The value of Excise Good on which Tax is imposed, equals to the retail sales price determined by the importer or producer, or the standard price agreed on these goods in accordance with the Agreement, whichever is higher; exclusive of Tax due and VAT". Additionally, Paragraph (2) of Article (6) of the Common Excise Tax Agreement of GCC States provides "The taxable value for other excise goods shall be determined based on their retail selling price, provided that the retail selling price is either the price set by the importer or producer of the excise goods or the standard price list periodically agreed upon by the tax authorities of the GCC member states—whichever is higher." The Department established, based on the case file, that Plaintiff's goods were legally customs-cleared after submitting all required documents, including

the customs declaration, which accurately described the type of goods without misrepresentation by Plaintiff. Moreover, there was no reservation or notification received from the Saudi Customs regarding the goods at the time of clearance. Defendant failed to provide evidence supporting its right under applicable laws and regulations to retroactively claim the alleged tax differences, without substantiating the accuracy of these tax differences, and without demonstrating any errors in the invoices and records submitted by Plaintiff to the competent customs officer during the clearance of goods. Defendant has also not provided proof of any misrepresentation by Plaintiff in its disclosures. Furthermore, Defendant's response confirms that it does not dispute the validity of Plaintiff's claim and has acknowledged that the issue has been rectified by adjusting the excise tax due on Plaintiff and given that Plaintiff's representative has requested the Department to issue a decision to preserve their client's right.

Based on the abovementioned grounds and after deliberation, the Department unanimously decided as follows:

Decision

First: Accept case in form.

Second: Annul Defendant's (ZATCA) decision against (....) Company, C. R. No. (...) Subject of the case.

The decision was made in presence of both parties, and the Department has allocated thirty days for receipt of decision copy. The Department may extend this period by an additional thirty days if necessary. According to Article (42) of the Rules of Tax Dispute and Violation Committee Procedures, this decision shall be deemed final and enforceable.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

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

Decision No.: VA-2022-171

Case No.: E-67740-2021

Key words:
Excise Tax – Incorrect Excise Tax Calculation – Tobacco Products – Appeal Admissibility.

Abstract

Taxpayer seeks annulment of Committee Decision No. (ER-2021-10) on the grounds that all relevant documents and correspondence proving the incorrect calculation of excise tax—amounting to SAR 3,772,440—for Customs Declaration No. (...) related to the importation of tobacco products were duly submitted. Appellant's objection is based on the claim for a refund of the excise tax collected according to Customs Declaration No. (...) and the change in the standard price, citing an error by the Saudi Customs in classifying the goods under a single standard price without considering the difference between the two imported items. The Department has determined that the administrative authority's (Saudi Customs) delay in responding to Appellant in a timely manner to rectify their refund claim, in accordance with the provisions of Paragraph (3) of Article (51) of the Implementing Regulations of the Excise Tax Law, has resulted in Appellant's delay in directing their import claim to Appellee (ZATCA). Therefore, The Department hereby ruled to accept the appeal and annul the primary decision.

Documents:

- Paragraph (2) of Article (40) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH
- Implementing Regulations of the Excise Tax Law issued by Decision No. (19-3-2) of the Board of Directors of GAZT, dated 10/09/1440 AH and its amendments.

Facts

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

First: In form:

- Accept the case in form.

Second: On merits:

- Dismiss the case filed by Plaintiff/ (...), C. R. No. (...) against ZATCA's decision on merits.

As this decision was rejected by Appellant, they filed a statement of appeal to the Appellate Department, objecting to the appealed primary decision, which dismissed their claim on merits. Appellant argues that they had submitted all necessary documents and correspondence proving the incorrect calculation of excise tax amounting to SAR 3,792,400, a matter acknowledged by the Saudi Customs. Additionally, Appellant asserts that the refund request was submitted within the statutory period. The appeal concludes with a request for the acceptance of the appeal and the annulment of the committee's decision.

In response to Appellant statement, Appellee submitted a counter-argument, summarized as follows: "First: ZATCA initially states that Appellant's appeal does not introduce any new arguments beyond those previously presented and discussed before the primary committee. Accordingly, ZATCA reaffirms its position as detailed in the memoranda submitted before the committee regarding the disputed appeal points. Second: ZATCA, regarding the matter under consideration, clarifies to the Honorable Committee that Appellant had previously submitted a tax refund request to ZATCA on23/07/2019. However, the request was not considered because it exceeded the statutory 90-day period from the date of the original tax payment, in accordance with Paragraph (3) of Article (51) of the Implementing Regulations of the Excise Tax Law, which states: "An application for the refund of tax paid in excess of Tax Due- according to this Article - shall only be processed by the Authority if it is submitted within ninety (90) days after the payment of the Tax on the Excise Goods that have been released for consumption". Since Appellant paid the original excise tax on 27/11/2028, and submitted the refund request on 23/07/2019, the claim is inadmissible under the law due to the expiration of the statutory period for filing a claim. Third: For the esteemed Department's information, upon reviewing the correspondences and communications submitted by Appellant before the primary committee, it is evident that they consist of internal communications between departments within the Saudi Customs at that time. There was no explicit confirmation or acknowledgment of Appellant's entitlement to a refund, nor was any corrective decision issued by the Saudi Customs or an amendment made to the customs import declaration. As Your Excellencies are aware, Customs is the competent authority authorized to calculate the excise tax due on imports subject to excise tax regulations. Furthermore, we wish to draw your attention to the communications submitted by Appellant before the primary committee. It is evident that the Saudi Customs letter addressed to Appellant, requesting a Zakat and Tax Certificate, refers to a different import declaration than the one in dispute, underscoring the inaccuracy of Appellant's documentation, demonstrating that the submitted communications are inconsistent, unclear, and arbitrary. As such, they cannot be relied upon as evidence to establish Appellant's entitlement to a refund."

On Tuesday 28/07/1443 AH, corresponding to 01/03/2022, the First Appellate Department for VAT and Excise Tax Violations and Disputes held a session to consider the appeal submitted via video conference, based on Article 15.2 of Rules of Tax Dispute and Violation Committee Procedures, which stipulates: "A circuit may hear the case using modern technological means provided by the General Secretariat." Case file, including memoranda and documents, and the appealed primary decision have been reviewed. After discussion and deliberation, the Department decided to adjourn the session for the issuance of the decision.

Grounds

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

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

On merits, the Appellate Department, upon reviewing the case files, documents, evidence, and submissions from both parties, including memoranda and responses, noted that the primary decision dismissed Appellant's claim. Appellant's objection is based on the submission of documents and correspondence proving an incorrect assessment of the excise tax amounting to SAR 3,772,440 for Customs Declaration No. (...), related to the importation of tobacco products were duly submitted. Appellant's objection is based on the claim for a refund of the excise tax collected according to Customs Declaration No. (...) and the change in the standard price, citing

an error by the Saudi Customs in classifying the goods under a single standard price without considering the difference between the two imported items. Upon review, the Appellate Department found that the primary decision and the contested item was based on Appellant's stance that Appellant was not entitled to those differentials because they did not submit the refund request within the specified statutory period for such requests (ninety (90) days from the date of tax payment on excise goods), regardless of Appellant's entitlement to the refund difference for the tax paid. It was established that Appellant addressed Jeddah Islamic Port Customs under Letter No. (.../...) dated 04/12/2018, requesting a refund of the excess amount. The General Department of Customs Audit acknowledged, in its Letter No. (.../...) dated 05/12/2018, the existence of a tax difference due to a recurring automated error, particularly with incoming tobacco transactions. The General Department of Customs Audit directed Appellant to ZATCA (formerly GAZT) regarding their refund claim, as per its Letter No. (...-...-...) dated 31/10/2019. The crux of the matter lies in the reliance solely on the date Appellant submitted the tax refund claim to Appellee (ZATCA), starting from the date of payment to the Saudi Customs, without considering the circumstances that led to the delay in submitting the refund request to Appellee (ZATCA). It has been established that the administrative authority's (Saudi Customs) delay in responding to Appellant in a timely manner to rectify their refund claim, in accordance with the provisions of Paragraph (3) of Article (51) of the Implementing Regulations of the Excise Tax Law, has resulted in Appellant's delay in directing their import claim to Appellee (ZATCA). Therefore, The Department deems it appropriate to accept the appeal and annul the primary decision.

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

Decision

First: Accept the Appeal filed by ....., C. R. No. (...) In form be submitted during regulatory period.

Second: Accept the Appeal filed by ....., C. R. No. (...) Annul Decision No. (ER-2021-10) delivered by the First Department to adjudicate Excise Goods Tax Violations and Disputes in Riyadh, as well as ZATCA's decision regarding the excess amount paid, totaling SAR (3,772,440).

May Allah's Blessings and Peace be upon our Prophet Muhammad and his Family and Companions.

Successfully Completed, Thanks to Allah